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Supreme Court of the United States

OCTOBER TERM, 1943

No. 22

**JAMES P. WENBERRY, JR., ET AL.,
APPELLANTS,**

vs.

CARL E. SANDERS, ETC., ET AL.

**APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA**

FILED OCTOBER 14, 1943

APPROPRIATE JURISDICTION NOTED JUNE 14, 1943

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INDEX

	Original	Print
Record from the United States District Court for the Northern District of Georgia		
Complaint	1	1
Exhibit "A"—United States Congressional Districts—Present District Populations and Proposed District Populations	15	17
Answer	20	18
Transcript of proceedings of May 23, 1962	24	21
Appearances	24	21
Testimony of James Pickett Wesberry, Jr.— direct	34	21
James A. Mackay— direct, objections to testi- mony and court's rulings	36	23
Offers in evidence	45	28
Testimony of Mrs. Virginia Stringer— direct	51	32
Harry C. Adley— direct	55	35

	Original	Print
Record from the United States District Court for the Northern District of Georgia—Continued		
Opinion, Bell, J. _____	123	36
Opinion, Tuttle, J., Concurring in part and dissenting in part _____	141	51
Notice of appeal to the Supreme Court of the United States _____	146	55
Clerk's certificate (omitted in printing) _____	149	56
Order noting probable jurisdiction _____	150	56
Additional record from the United States District Court for the Northern District of Georgia _____	151	57
Plaintiffs' Exhibit 9—State of Georgia County Outline Map indicating Congressional Districts _____	151	57
Plaintiffs' Exhibit 12—House Bill No. 610, 1952 Session, Georgia House of Representatives _____	152	58
Plaintiffs' Exhibit 13—Memorandum submitted by the DeKalb County Legislative Delegation to commission in regard to Resolution No. 296 _____	154	60
Plaintiffs' Exhibit 14—Letter from James A. Mackay to House of Representatives, dated October 10, 1961 _____	169	74
Defendants' Exhibit 1—Congressional Districts ranked according to population _____	173	79
Defendants' Exhibit 2—Percentage deviations of Congressional district population from average population per district of the State _____	187	93
Defendants' Exhibit 3—Congressional districts with population exceeding state average ranked according to % deviation above average _____	201	107
Defendants' Exhibit 4—Congressional districts with population less than state average ranked according to % deviation below average _____	208	114
Defendants' Exhibit 8—		
Exhibit A—U. S. Congressional Districts (Effective January, 1963-1960 Population) _____	216	122
Exhibit B—States ranked by ratio of most populous to least populous congressional districts _____	230	139

[fol. 1]

[File endorsement omitted]

**IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION.**

Civil Suit No. 7889

JAMES P. WESBERRY, JR. and CANDLER CRIM, JR.,

VS.

S. ERNEST VANDIVER and BEN W. FORTSON, JR.

To the Honorable Judges, District Court of the United
States of America for the Northern District of Georgia,
Atlanta Division:

COMPLAINT—Filed April 17, 1962


I.

The plaintiffs herein are James P. Wesberry, Jr. and Candler Crim, Jr., both residents of the County of Fulton, State of Georgia. The plaintiffs are citizens of the United States of America and of the State of Georgia. They are registered and qualified voters of said County and State, and as such, are entitled to vote for members of the House of Representatives of the Congress of the United States from the State of Georgia. The plaintiffs reside in the existing fifth Congressional Election District of Georgia, said district consisting of Fulton, DeKalb and Rockdale Counties.

[fol. 2]

II.

The plaintiffs herein bring this action in their behalf, in the behalf of all qualified voters of the fifth Congressional Election District, and in behalf of all of the qualified voters of the State of Georgia who are or may become similarly situated.



III.

The following named defendants are citizens of the United States and State of Georgia and are residing within Georgia:

Defendant S. Ernest Vandiver, in his representative capacity as the duly elected, qualified and acting as the Governor of the State of Georgia, with his office and official residence in Atlanta, Georgia, and his successors in office; that as Governor he is charged with the duty of counting the votes, and immediately thereafter issue his proclamation declaring the person having the highest number of votes, and otherwise qualified, to be duly elected to represent the State in the House of Representatives of the United States as set forth in Georgia Code Section 34-2305.

Defendant Ben W. Fortson, Jr., in his representative capacity as duly elected, qualified and acting Secretary of this State with his office in Atlanta, Georgia, and his successors in office. The Secretary of State is charged with the responsibility of furnishing to the Ordinary of each County of this State the form of official ballot, all blank forms, including tally sheets, list of voters, forms of returns, certificates and directions to be used in the elections for representatives to the United States Congress, pursuant to Georgia Code Chapters 34-19 and 40-6. The Secretary of State also shall certify to the respective Ordinaries, the names of all candidates for representatives to said Congress.

IV.

The court has jurisdiction of the parties hereto and of the subject matter of the complaint. As it will more fully appear from the facts hereinafter set forth, the plaintiffs herein have standing to complain and the subject matter of said complaint is not a non-justiciable issue.

[fol. 3]

V.

The plaintiffs herein bring this civil action under the following Statutes:

(1) 42 U.S. Code Sections 1983 and 1988, which provide:

"Section 1983: Civil Action for deprivation of rights. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizens of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in any action at law, suit in equity or other proper proceeding for redress."

"Section 1988. Proceedings in vindication of Civil Rights. The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of Title 18, for the protection of all persons in the United States in their Civil Rights, and for their vindication."

(2) 28 U.S. Code Section 1343 (3), which provides:

"Section 1343, Civil Rights.

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person; . . .

"(3) To redress the deprivation, under color of any state law, statute, ordinance, regulations, custom, or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States."

VI.

This suit seeks interlocutory and permanent injunction to restrain the enforcement, operation and execution of certain laws of the State of Georgia, restraining officers thereof, namely, the Governor and the Secretary of State from complying with the provisions of such laws. Consequently, this case should be determined by a bench composed of three judges, as provided in 28 U.S. Code 2281 et seq. Furthermore, this action seeks relief under 28 U.S. Code 2201 et seq., providing for the declaration of rights

and other relations of any interested party seeking such declaration and for further necessary and proper relief based upon such declaratory judgment;

VII.

The following Article of, and Amendment to, the Constitution of the United States are applicable in this action:

(1) Article 1, Section 2 provides:

"The House of Representatives shall be composed of members chosen every second year by the *People* of the several States. . . ." (Emphasis added.)

[fol. 4] (2) The Fourteenth Amendment, Section 1, provides that:

"No state shall make or enforce any law which shall *abridge* the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." (Emphasis added.)

(3) The Fourteenth Amendment, Section 2, provides that:

"Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of a legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in *any way abridged*, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State." (Emphasis added.)

VIII.

Georgia Code, Chapter 34-23, which provides for the election of members of Congress from Georgia, is as follows:

"34-2301. Congressional districts. The State is hereby divided into 10 congressional districts, in conformity with the Act of Congress of the United States approved June 18, 1929, decreasing the number of Congressmen from Georgia to 10, each of said districts being entitled to elect one Representative to the Congress of the United States. The districts shall be composed of the following *counties*, respectively:

First District: Bryan, Bulloch, Burke, Candler, Chatham, Effingham, Emanuel, Evans, Jenkins, Liberty, Long, McIntosh, Montgomery, Screven, Tattnall, Toombs, Truetlen, and Wheeler.

Second District: Baker, Brooks, Calhoun, Colquitt, Decatur, Dougherty, Early, Grady, Miller, Mitchell, Seminole, Tift, Thomas, and Worth.

Third District: Ben Hill, Chattahoochee, Clay, Crisp, Dodge, Dooly, Harris, Houston, Lee, Marion, Macon, Muscogee, Pulaski, Quitman, Randolph, Schley, Stewart, Sumter, Taylor, Peach, Terrell, Turner, Webster and Wilcox.

Fourth District: Butts, Carroll, Clayton, Coweta, Fayette, Herd, Henry, Lamar, Meriwether, Newton, Pike, Spalding, Talbot, Troup and Upson.

Fifth District: DeKalb, Fulton and Rockdale.

Sixth District: Baldwin, Bibb, Bleckley, Crawford, Glascock, Hancock, Jasper, Jefferson, Jones, Johnson, Laurens, Monroe, Putnam, Twiggs, Washington and Wilkinson.

Seventh District: Bartow, Catoosa, Chattooga, Cobb, Dade, Douglas, Floyd, Gordon, Haralson, Murray, Paulding, Polk, Walker and Whitfield.

Eighth District: Atkinson, Appling, Bacon, Berrien, Brantley, Camden, Charlton, Clinch, Coffee, Cook, Echols, Glynn, Irwin, Jeff Davis, Lanier, Lowndes, Pierce, Telfair, Ware and Wayne.

[fol. 5] ***Ninth District:*** Banks, Barrow, Cherokee, Dawson, Fannin, Forsyth, Gilmer, Gwinnett, Habersham, Hall, Jackson, Lumpkin, Pickens, Pabun, Towns, Stephens, Union and White.

Tenth District: Clarke, Columbia, Elbert, Greene, Hart, Lincoln, Madison, McDuffie, Morgan, Oconee, Oglethorpe, Richmond, Taliaferro, Walton, Warren, Wilkes and Franklin. (Acts 1911, p. 146; 1912, pp. 38, 41; 1912, p. 108; 1914, p. 27; 1914, p. 29; 1914, p. 33; 1916, p. 17; 1917, p. 41; 1917, p. 44; 1918, p. 102; 1918, p. 106; 1919, p. 68; 1920, p. 34; 1920, p. 38; 1920, p. 48; 1920, p. 52; 1921, p. 88; 1924, p. 88; 1924, p. 39; 1931, p. 46)

"34-2302. *Time of Election.* Members of the House of Representatives of the United States Congress shall be elected on Tuesday after the first Monday in November of each even numbered year. (Acts, 1872, p. 29)

"34-2303. *Governor must order election, when.* If an extra session of Congress shall be called after expiration of the congressional term, and before the next regular time for holding such elections, the Governor shall issue his proclamation ordering an election of such representatives for such extra session.

"34-2304. *Candidates must reside one year in district, to be eligible.* Besides the qualifications required by the Constitution of the United States, a residence of one year next preceding the day of election in the district for which the candidate offers, shall be necessary to make him eligible to election.

"34-2305. *Governor to count votes, etc.* Within 20 days after the election, the Governor shall count the votes, and immediately thereafter issue his proclamation, declaring the person having the highest number of votes, and otherwise qualified, to be duly elected to repre-

sent this State in the House of Representatives of the United States, and for what period. (Act 1799, Cobb, p. 234)

"34-2306. *In case of tie, new election ordered.* If two or more persons, equally qualified, shall have the same number of votes, the Governor shall issue his proclamation ordering a new election, within no less than 30 days. (Act 1799, Cobb, p. 234)

"34-2307. *Members-elect to apply for commissions within 30 days; vacancies.* If any person duly elected as aforesaid shall not, within 30 days after the Governor's proclamation, apply for his commission, the Governor shall order a new election, as prescribed in the preceding section; and vacancies for any cause shall be filled in like manner. (Act 1799, p. 234)"

IX.

The population of the ten Congressional Election Districts of Georgia for the years 1950 and 1960, according to the United States Bureau of the Census, is as follows:

[fol. 6]

Congressional District	1960	1950	Number of Increase from 1950 to 1960	Percentage of Increase from 1950 to 1960	Percentage of total population 1960
First	379,933	350,052	29,881	8.5%	9.6%
Second	301,123	285,665	15,458	5.4%	7.7%
Third	422,198	383,148	39,050	10.2%	10.7%
Fourth	323,489	298,251	25,238	8.5%	8.3%
Fifth	823,680	618,431	205,249	33.2%	20.9%
Sixth	330,235	307,951	22,284	7.2%	8.4%
Seventh	450,740	367,598	83,142	22.6%	11.4%
Eighth	291,185	267,014	24,171	9.1%	7.4%
Ninth	272,154	246,227	25,927	10.5%	6.9%
Tenth	348,379	320,241	28,138	8.8%	8.7%
TOTAL	3,943,116	3,444,578	498,538	14.5%	100.0%

X.

Based upon the foregoing, the average population of the Congressional Election Districts of Georgia is 394,312. The most populous district of Georgia is the fifth district which has a population of 823,680, which is 207% greater, or almost one-half million more people, than the average district. In 1960 the fifth district had 20.9% of the total population of the state of Georgia and at the present rate of population growth, the fifth district will have approximately 25% of the total population in 1970. The least populous district of Georgia is the ninth district, which has a population of 272,154, or only 6.9% of the total population of Georgia. The fifth district has a population of more than 300% of the population of the ninth district, and at the present rate of population growth, the fifth district will have more than 350% of the population of the ninth district in 1970. The fifth Congressional district of Georgia, according to the 1960 census, was the sixth most populous in the United States. Today, the fifth district is the second most populous district in the United States. The average population per Congressional district throughout the United States is approximately 410,000, less than one-half the size of Georgia's fifth district.

[fol. 7]

XI.

Plaintiffs assert that the classification of the Congressional districts as provided by Georgia Code section 34-2301, is arbitrary, capricious, and discriminatory. Said classification disfavors the plaintiffs and others similarly situated, placing them in a position of constitutionally unjustifiable inequality vis-a-vis voters in irrationally favored districts. The plaintiffs have been denied their right as citizens to vote free of any impairment or infringement by State action. Plaintiffs further assert that they have a plain, substantial, direct and adequate interest in maintaining the effectiveness of their votes. Neither the statute, that is Georgia Code section 34-2301, nor any legislative history reveal any standards upon which the ten Congressional seats, which have been allocated to the State of Georgia,

are to be apportioned among the people of this State. The law creating Georgia's ten Congressional Election Districts and dividing the various counties into a particular district was enacted in 1931 and has not been altered or amended since that time. The census figures for the years 1940, 1950 and 1960 have been revealed, yet there has been no adjustment of the representation of the people of Georgia in the House of Representatives since 1931, despite the subsequent drastic shifts of population. The statute does not provide for any adjustment at any time, based upon shifts of population or for any other reason. The boundaries are not reasonable or rational and are based upon representing land area or political subdivisions of the State rather than upon representing the people as required by the Constitution of the United States.

XII.

The aforesaid Georgia Code section 34-2301 constitutes discrimination against these plaintiffs, individually and as a group, all without justifiable or reasonable basis. Said code section creates arbitrary and unconstitutional classifications among the voters of the State for the election of members of the House of Representatives, being based solely on geographical location of the voters.

[fol. 8]

XIII.

Inasmuch as the plaintiffs herein live in the heavily populated fifth Congressional Election District, their vote is much less effective than the vote of those residing in the ninth district and other districts of Georgia. Through their representative to Congress, the voters in the ninth district have three times the political power of the voters of the fifth district. Conversely, the representative of the fifth district represents three times the number of people that the representative of the ninth district does. This unconstitutional disparity between these districts will continue in the future as the shift in population from rural to urban areas continues. Certain politicians have created an artificial barrier between the urban and rural voters, suggesting to these voters that they have opposing and divergent interests. To

day in Georgia, the legislature is controlled by rural areas, although voters residing in rural areas, as defined by the Bureau of Census constitute a minority of the population. This system of giving the minority the control of the legislature has failed both to protect rural citizens against continuing economic losses and declines and to meet the growing needs of urban citizens.

XIV.

To date, all attempts by the informed, civically and militant electorate and an aroused public to have the General Assembly to reapportion the Congressional Election Districts so as to more nearly equalize their population have been without success. A contributing, if not the, cause of this situation is the fact that the State legislature is chosen on the basis of State election subdivisions inequitably apportioned in a way similar to those of the Congressional districts. That the issues of State and Congressional apportionment are thus so interdependent and interrelated that it is to the interest of the State legislature to perpetuate the inequitable apportionment of both State and Congressional Election Districts. Consequently, there are no practical opportunities for the plaintiffs and the people of Georgia for exerting their political weight at the polls. Georgia has no initiative and referendum.

[fol. 9]

XV.

The reduction of the effectiveness of the plaintiffs' vote is the result of willful legislative discrimination against them. The statute sub judice has no standard for allocating the ten Congressional seats among the people of the State. If the legislature has any policy in this area, it is to maintain the status quo of invidious discrimination against the plaintiffs and those similarly situated at any cost. The gross and glaringly inequality of the voting power of the citizens of the various Congressional Election Districts irrefutably demonstrates a complete lack of effort by the legislature to seek an equitable apportionment.

XVI.

The plaintiffs' rights, in particular, equal suffrage in equal and free elections, have been infringed as a result of State legislative action departing from a federal constitutional standard. While the Constitution of the United States contains no *express* provision requiring that Congressional Election Districts established by the States must contain approximately equal population, the constitutionally guaranteed right to have one's vote count clearly implies the policy that the State election systems, no matter what their form, should be designed to give approximately equal weight to each vote cast.

XVII.

This reduction of the effectiveness of the plaintiffs' votes by the arbitrary, capricious and invidious discrimination and classification clearly violates the privileges and immunities clause of the Fourteenth Amendment to the Constitution of the United States in abridging their privileges as citizens of the United States and of the State of Georgia to vote for members of the House of Representatives from said State; a privilege guaranteed by Article I, Section 2 of the Constitution of the United States.

XVIII.

Furthermore, this reduction of effectiveness of the plaintiffs' votes by the said arbitrary, capricious and invidious discrimination and classification on the part of the State amounts to a denial of the equal protection of the laws [fol. 10] guaranteed by the Fourteenth Amendment to the Constitution of the United States.

XIX.

Plaintiffs further contend that Georgia Code section 34-2301 directly violates Article I, Section 2 of the Constitution of the United States, which guarantees that each citizen eligible to vote has a right to vote for the Congressmen representing the State of Georgia, and moreover, to have that vote fully counted. The right to have this vote

counted is abridged unless that vote is given approximate equal weight to that of other citizens of the State.

XX.

By depriving the plaintiffs of their guaranteed right to vote and to have that vote counted effectively in the election of members of the House of Representatives of the United States, said plaintiffs are additionally deprived of due process of the law inasmuch as the House of Representatives, in conjunction with the Senate, enact laws affecting the life, liberty and property of all people, including these plaintiffs.

XXI.

Plaintiffs' injuries are substantial and there are judicially acceptable, discoverable and manageable standards for remedying the said injuries. To remedy plaintiffs' injuries, however, it would not be necessary that the Court supervise any election or exercise any functions that are constitutionally reserved for the exercise by the legislative and executive branches of the government. The plaintiffs have been injured individually and as citizens of the United States and of the State of Georgia.

XXII.

The plaintiffs attach hereto an exhibit, marked "Exhibit A", which is a proposed plan that has been submitted previously to the General Assembly providing for a more representative and equitable apportionment of the ten Congressional Election Districts of the State of Georgia. The plaintiffs do not necessarily endorse this plan but offer it as evidence that the problem of reapportionment of the Congressional Election Districts is not beyond practical possibilities. Under this plan, only two of the incumbent Congressmen from the State of Georgia would be required [fol. 11] to oppose each other. The plan would give the County of Fulton, which has a population of 556,326, a representative. The plan's feasibility and simplicity is further emphasized by the fact that it does not require splitting the counties into different districts.

XXIII.

The provisions of Georgia Code section 34-2301 should be declared to be invalid and unenforceable, as violative of plaintiffs' aforesaid constitutional rights; and the General Assembly of the State of Georgia, that is, the State legislative body, should be authorized and directed to reapportion the Congressional Election Districts upon a more equitable and representative basis, with each district having approximately an equal number of people. Further, that this Court direct and authorize the General Assembly to apportion the Congressional Election Districts in such a manner as will not deny to the plaintiffs their constitutionally protected rights.

XXIV.

This Court should enjoin the defendants, and the Ordinaries of the various counties within this State from holding any elections for Congressmen from the existing malapportioned Congressional Election Districts.

XXV.

This Court should prevent by interlocutory and permanent injunction the performance by the defendants of their certain duties enumerated in paragraph three of this complaint. The rights of these plaintiffs and all other qualified voters of Georgia similarly situated can be protected only by a decree of this Court declaring the complained of statute (Georgia Code section 34-2301) to be unconstitutional and by enjoining the defendants from holding unconstitutional elections in November, 1962, or at any time thereafter.

XXVI.

The next General Election for members of Congress is set for the first Tuesday in November, 1962, and therefore, sufficient and ample time exists for the General Assembly to meet in special session and for there to be enacted into law an equitable reapportionment of the Congressional Election Districts, which would comply and meet the con-

stitutional standards which the Courts have devised to [fol. 12] protect the rights of these plaintiffs. Indeed, the Governor of Georgia has called the General Assembly into a special session to consider a similar inequity, that is, malapportionment of representatives to the State legislature to be convened on April 16, 1962. It would be a simple, reasonable and appropriate procedure and measure for the Governor to amend his call in order to include the consideration of the Congressional malapportionment.

XXVII.

Unless the General Assembly enacts legislation to provide for a more equitable and representative apportionment of the Congressional Election Districts prior to the elections set for the General Election, it is meet and proper that this Court order that the defendants exercise their respective duties and prepare for the elections of 1962 and hold the same in such a manner that the elections will be held at large over the State as a whole, whereby every qualified voter shall have the right to vote for every candidate for the House of Representatives of the United States Congress.

XXVIII.

It is meet and proper that the Court mold a decree embodying and implementing the relief and remedies sought herein and whereby the constitutionally guaranteed rights of plaintiffs may be protected and carried into effect.

Wherefore, the plaintiffs herein respectfully pray that:

- (a) This Court take jurisdiction of this matter;
- (b) A special three judge Court be called to hear and determine this cause and declare the rights of the plaintiffs;
- (c) This Court hold and decree that the existing Congressional malapportionment of the State of Georgia has deprived and continues to deprive plaintiffs of liberty and property without due process of law;
- (d) This Court hold and decree that the existing Congressional malapportionment of the State of Georgia has

deprived and continues to deprive the plaintiffs of equal protection of the laws;

(e) This Court hold and decree that the existing Congressional malapportionment of the State of Georgia has deprived and continues to deprive plaintiffs of privileges guaranteed by the Fourteenth Amendment to the Constitution of the United States;

[fol. 13] (f) This Court hold, adjudge and decree that Georgia Code section 34-2301 to be void and invalid, as being contrary to the Fourteenth Amendment of the Constitution of the United States, Sections 1 and 2 and contrary to Article I, Section 2 of the Constitution of the United States;

(g) Defendant, S. Ernest Vandiver, in his representative capacity as Governor of this State and his successors in office and his representatives, be restrained from counting the votes in the elections for members to the House of Representatives of the Congress of the United States, and from issuing any proclamation or declaring any person as a member of said House;

(h) Defendant, Ben W. Fortson, Jr., in his representative capacity as Secretary of State be restrained from furnishing any forms for nominations and/or elections with respect to nominations or elections to membership in the House of Representatives of the United States Congress, and from furnishing any Ordinary or election manager or any one else the forms of the official ballot, tally sheets, list of voters, form of returns, certificates and directions to be used in elections for members of said House;

(i) Upon failure of the General Assembly to take action to reapportion the Congressional Election Districts upon an equitable and representative basis, to direct the defendants named herein to declare, prepare for and hold the election for members to the House of Representatives of the United States Congress on a State-at-Large basis and to direct them to take whatever further action as may be necessary or desirable to insure that all candidates for election to said House run at large throughout the State on a purely popular vote basis, and said manner and method

of election to continue until such time as the General Assembly enacts legislation, said legislation be enacted into law, reapportioning the Congressional Election Districts upon an equitable and representative basis, and which would provide protection of plaintiffs' constitutional rights;

(j) For such other and further relief as the Court may deem proper.

[fol. 14] This is the first application for any extraordinary process in this cause.

Scott, Scroggins & Cash, Frank T. Cash, Attorneys
for Plaintiffs, 2301 The Bank of Georgia Bldg.,
Atlanta 3, Georgia, JA 3-1926.

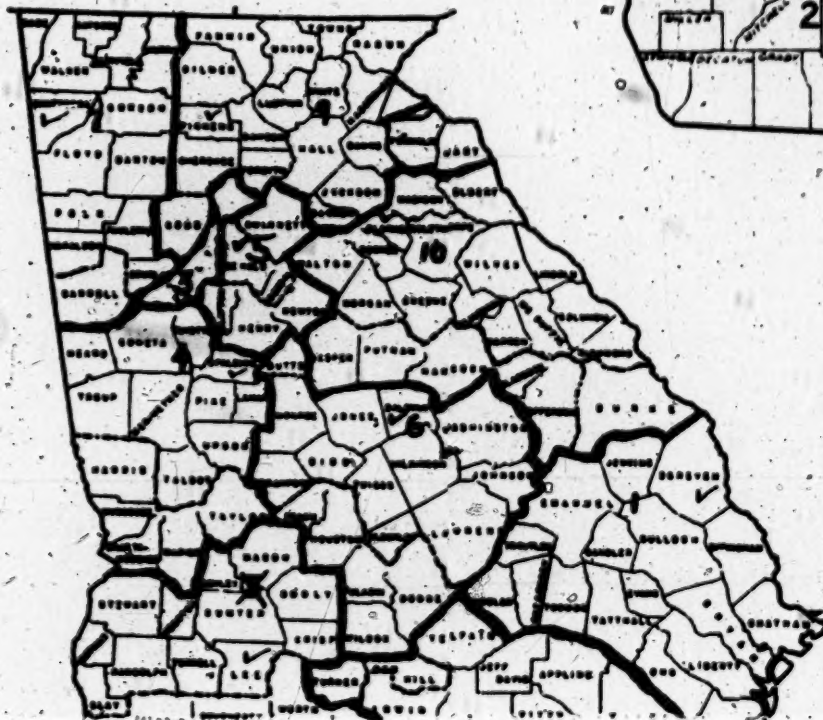
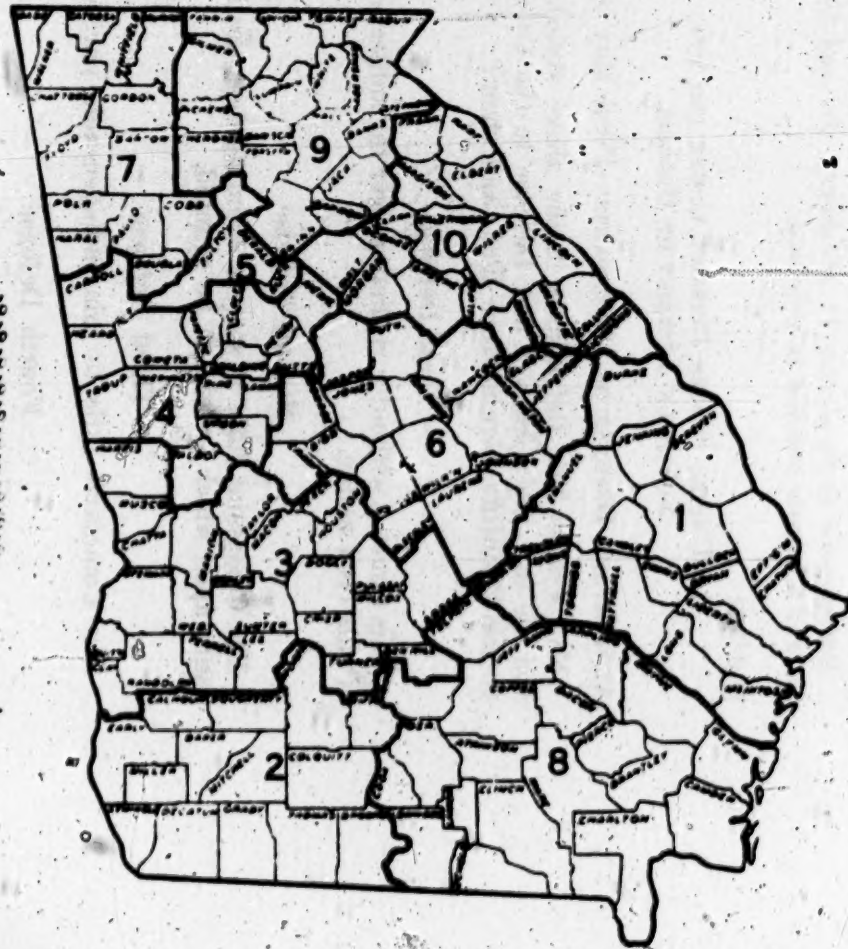
UNITED STATES CONGRESSIONAL DISTRICTS

Present District Populations:

1	379,900 or 9.64%
2	301,000 or 7.64%
3	422,100 or 10.71%
4	300,400 or 8.20%
5	800,600 or 20.89%
6	300,200 or 8.37%
7	400,710 or 11.43%
8	200,100 or 7.38%
9	200,100 or 6.90%
10	300,300 or 8.84%

Largest (V) has 550,000 more people than smallest.

U. S. average people per Congressional District: 410,000.



Proposed District Populations:

1	368,500 or 9.14%
2	365,300 or 9.10%
3	556,300 or 14.11%
4	389,600 or 9.71%
5	395,800 or 9.99%
6	409,800 or 10.30%
7	373,000 or 9.46%
8	368,700 or 8.56%
9	371,300 or 9.44%
10	384,400 or 9.70%

Goal: 10%, or 400,000 people, per district

Present District Populations:

1	379,900 or 9.64%
2	301,000 or 7.64%
3	422,100 or 10.71%
4	300,400 or 8.20%
5	300,600 or 20.89%
6	300,200 or 8.37%
7	400,710 or 11.43%
8	200,100 or 7.38%
9	200,100 or 6.90%
10	300,300 or 8.84%

Largest (V) has 550,000 more people than smallest.

U. S. average people per Congressional District: 410,000.



Proposed District Populations:

1	368,500 or 9.14%
2	365,300 or 9.10%
3	556,300 or 14.11%
4	389,600 or 9.71%
5	396,800 or 9.99%
6	409,800 or 10.30%
7	373,000 or 9.46%
8	368,700 or 8.56%
9	371,300 or 9.44%
10	384,400 or 9.70%

Goal: 10%, or 400,000 people, per district

Largest: III—With 556,300 people

Smallest: VIII—With 368,700 people

[fol. 15]

EXHIBIT "A" TO COMPLAINT

[fol. 16]

*Duly sworn to by James P. Wesberry, Jr. and Candler
Crim, Jr.; jurats omitted in printing.*

[fol. 20]

IN UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA

ANSWER AND DEFENSE OF DEFENDANTS—Filed May 9, 1962

Now Comes The Defendants in the above styled cause
and file this their Answer and Defense to the Complaint
of the Plaintiffs hereinbefore filed, and show:

First Defense

This Court is without jurisdiction over the subject matter
of this civil action.

Second Defense

The Complaint fails to state a claim against the Defen-
dants upon which relief can be granted.

Third Defense

The Complaint fails to join indispensable parties.

Fourth Defense

The Defendants answer the several Paragraphs of the
Complaint as follows:

1.

Answering Paragraph I of the Complaint, the Defen-
dants admit the allegation that the Fifth Congressional
Election District of Georgia consists of Fulton, DeKalb
and Rockdale Counties. For want of information sufficient
to form a belief, the Defendants are unable either to admit
or deny the other allegations contained in the said Para-
graph.

[fol. 21]

2

Defendants deny the allegations contained in Paragraph
II of the Complaint.

- 3.

Answering Paragraph III of the Complaint, the Defendants admit that their citizenship, residences and official positions as therein alleged are correct. Insofar as the said Paragraph alleges that the Defendants have certain duties and responsibilities, the Defendants say that their duties as public officers are defined by law, of which this Court can take judicial notice.

4.

Defendants deny the allegations contained in Paragraph IV of the Complaint.

5.

Defendants deny the allegations contained in Paragraph V of the Complaint that the Plaintiffs have any right to bring this civil action under 28 USC, Section 1343(3) and 42 USC, Sections 1983 and 1988.

6.

Paragraph VI of the Complaint alleges matters of law requiring no answer.

7.

Defendants deny the allegations contained in Paragraph VII of the Complaint that Section II of Article I of, and the Fourteenth Amendment to, the Constitution of the United States are applicable in this civil action.

8.

Paragraph VIII of the Complaint alleges matters of law requiring no answer.

9.

Paragraph IX of the Complaint alleges matters within the judicial knowledge of the Court and requires no answer.

[fol. 22]

10.

For want of sufficient information to form a belief, the Defendants are unable either to admit or deny the accuracy of the figures and computations alleged in Paragraph X of the Complaint. Otherwise, the allegations of the said Paragraph are denied.

11.

Defendants deny the allegations contained in Paragraphs XI, XII, XIII, XIV, XV, XVI, XVII, XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV, XXVI, XXVII and XXVIII of the Complaint.

Wherefore, the Defendants pray that the prayers of the Complaint be denied and that the Complaint be dismissed.

Eugene Cook, The Attorney General, Paul Rodgers,
Assistant Attorney General, Donald E. Payton,
Assistant Attorney General.

[fol. 23] *Duly sworn to by Ben. W. Fortson, Jr., jurat
omitted in printing.*

Certificate of service (omitted in printing).

[fol. 24] [File endorsement omitted]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

Civil Action Number 7889

JAMES P. WESBERRY, JR., and
CANDLER CRIM, JR., Plaintiffs,

vs.

S. ERNEST VANDIVER and
BEN W. FORTSON, JR., Defendants.

Transcript of Proceedings—May 23, 1962

Before: Judge Elbert P. Tuttle, Judge Griffin B. Bell, and
Judge Lewis R. Morgan.

APPEARANCES:

For the Plaintiffs: Mr. Frank T. Cash, Mr. Frank W.
Scroggins.

For the Defendants: Mr. Eugene Cook, Mr. Paul
Rodgers.

[fol. 34] JAMES PICKETT WESBERRY, JR. Called as a wit-
ness on behalf of the Plaintiffs, after having first been duly
sworn, testified as follows:

Direct examination.

By Mr. Cash:

Q. Will you tell the Court your name, please?

A. James Pickett Wesberry, Junior.

Q. Where do you reside, Mr. Wesberry?

A. 1876 Windermere Drive, N. E., Atlanta, Georgia.

Q. What county is that in?

A. Fulton County.

Q. What is your occupation?

A. Certified Public Accountant.

Q. Are you a registered voter?

A. I am.

Q. Do you plan to vote in the Democratic Primary in September?

A. I do.

[fol. 35] Q. Do you plan to vote for the—for the candidate for the House of Representatives to the United States Congress?

A. I do.

Q. Are you a tax payer?

A. I am.

Q. Are you a resident of the Fifth Congressional District?

A. I am.

Mr. Cash: Your witness.

Mr. Rodgers: We have no questions, Your Honor.

Judge Tuttle: You may go down.

Mr. Rodgers: I might add, we will state in advance we will stipulate they are qualified voters and residents of Fulton County.

Judge Tuttle: All right.

Mr. Cash: I would like to call Mr. Candler Crim to the stand, please.

Judge Tuttle: I understand the State has now conceded that they are residents, tax payers, whatever you alleged in your first complaint as to the qualifications.

Mr. Cook: We have stipulated—

Judge Tuttle: The jurisdictional factors?

Mr. Cook: That's correct, not beyond that, may it please the Court.

[fol. 36] Judge Tuttle: You can still have Mr. Crim testify if you want.

Mr. Cash: Not unless the Court desires.

Judge Tuttle: We don't care.

Mr. Cash: The Plaintiffs call to the stand Mr. James Mackay.

JAMES A. MACKAY Called as a witness on behalf of the Plaintiffs, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Cash:

Q. Please state your name?

A. James A. Mackay.

Q. Where do you reside, Mr. Mackay?

A. 1032 Clifton Road, N. E., Atlanta 7, DeKalb County, Georgia.

Q. What is your occupation?

A. Attorney.

Q. Do you hold a public office, Mr. Mackay?

A. I am a member of the State House of Representatives of the General Assembly of Georgia from DeKalb County.

Q. How long have you held such a position?

A. I have been elected five times to that office. I am [fol. 37]. serving my fourth consecutive term.

Q. And that is a total number of how many years?

A. Ten years.

Q. Ten years? Mr. Mackay, you are aware, of course, the reason for the—excuse me. I will re-phrase the question. Were you aware of the creation of a committee to consider the reapportionment of the Congressional Districts for the State of Georgia?

A. I was one of the authors of House Resolution 296, if that is the one that you refer to.

Judge Tuttle: What session was that in?

The Witness: 1961 session.

By Mr. Cash:

Q. What was the general purpose of this committee, Mr. Mackay?

A. Well, I would like to state that our DeKalb delegation authorized a separate resolution specifically to study the need for Congressional reapportionment.

OBJECTIONS TO TESTIMONY AND COURT'S RULINGS

Mr. Cook: Now, Your Honor, I will have to object to this at this point, this line of testimony. If Counsel for Plaintiff will state to the Court, so that I may understand the purpose of this line of testimony, I think perhaps I might not have to object too many times, but in view of the fact that he has begun on the line of testimony which is objectionable to us, on the ground that it is immaterial [fol. 38] in this case and irrelevant, contributes nothing, since it is the testimony relating to a committee of some kind, about which I know nothing about, might have done, I would have to object at this point.

The Witness: May I explain my answer, Your Honor?

Judge Tuttle: Well, I think it would be more appropriate for Counsel to state the purpose of the examination.

Mr. Cash: Your Honor, it is the contention of the Plaintiffs, as we alleged in our petition, that the Legislature had willfully failed to act in reapportioning the District, in an effort to show to the Court that some effort was done—made by members of the General Assembly.

Judge Tuttle: From this Congressional District?

Mr. Cash: From this Congressional District, the Congressional District as we allege has been disenfranchised.

Judge Tuttle: Some effort to do what?

Mr. Cash: Pardon?

Judge Tuttle: Some effort been made to do what?

Mr. Cash: To reapportion the House on a more equitable basis—excuse me, the apportionment of the Congressional [fol. 39] Seat on a more equitable basis.

Judge Tuttle: You propose to show by this witness the effort that he took as a member of the General Assembly to accomplish this purpose in addition to whatever bills he personally may have introduced?

Mr. Cash: In addition—yes, sir.

Mr. Cook: I object on the same grounds; it's irrelevant, immaterial to this cause. That is the act of hearsay evidence, and it is evidence that points up the effort on the part of one or two or three or more persons to do something over which no one has the jurisdiction to do in this manner, except the Congress of the United States and the

Legislature of Georgia. I object to it as being irrelevant and immaterial.

Judge Tuttle: It appears to me, Mr. Cook, that since Mr. Mackay is a member of the House of Representatives from a county that is in this Congressional District as to which the Plaintiffs alleged a large disparity, that what this member of the Legislature may have done preliminary to the introduction of the bill, if one was introduced, may be relevant, and I would suggest we hear the evidence. We will take your objection to it under consideration, because really until we hear the evidence I don't believe I would be [fol. 40] able to decide myself whether I think it is relevant or not, so we will take the objection subject—we will take the evidence subject to the objection.

The Witness: Your Honor, I can state it very briefly. We—the DeKalb delegation introduced a resolution calling for the creation of a study committee to study the 1960 population figures.

Judge Tuttle: Now, that resolution is a formal numbered resolution?

The Witness: That is a numbered resolution in the House. When House Resolution 145 was passed out of the House and killed in the Senate, Mr. Twitty agreed that we could consolidate our resolution and a House Resolution to call for the study of the need for Legislative and Congressional reapportionment, and this is House Resolution 296 which was passed by the House. That is all I wanted to say about that. But I wanted to make the point that we have made an effort to get this bill passed.

Judge Tuttle: I know how hard it is for a lawyer to be an impartial witness, Mr. Mackay. What you wanted to do isn't really relevant. You are merely answering questions from the lawyer who put you on the stand. Let's see what he wanted you to say, please. Let's see what questions he wants you to answer.

[fol. 41] By Mr. Cash:

Q. Mr. Mackay, would you briefly summarize your activities as a member of the General Assembly to bring about a more equitable reapportionment of the Ten Congressional Districts.

A. Well, the Court is familiar with my testimony of the other day.

Mr. Cook: May it please the Court, I shan't be objecting—

Judge Tuttle: I think that question is objectionable. I think Mr. Mackay's testimony, thus far, may be relevant, and therefore we will let it stand subject to your objection.

Mr. Cash: Your Honor, may I elaborate?

Judge Tuttle: Yes, sir.

Mr. Cash: I feel as a member of the Legislature, other things than introducing resolutions are part of his duties. I believe it is my contention that a Legislator has the duty to create the proper atmosphere for the submission of bills at a proper time. Now, the Court may disagree with that, but that is my contention, that Mr. Mackay may have done other activities within the House other than introducing bills themselves that would have led up to a resolution, and I think that is immaterial.

Judge Tuttle: We have had a similar question in this [fol. 42] other litigation, and we did permit witnesses to testify as to representation made by the witness, a member of the Legislature, to committees—to committees of the House of Representatives, but we did not permit testimony of their general activities other than those activities in the House of Representatives. So this particular general question, I think, is too general that you have asked thus far.

Mr. Cash: Your Honor, in Plaintiffs' Exhibit 10, which is Report of House Reapportionment Study Commission, which was created by House Resolution 296, and House Resolution 296—I will read therefrom.

Judge Tuttle: What is the document?

Mr. Cash: This is House Resolution 296. It was adopted by the House of Representatives on March 6th, 1961.

Judge Tuttle: Now, you propose to introduce that, do you, later?

Mr. Cash: Yes, I do.

Mr. Cook: We have stipulated it.

Judge Tuttle: You may read it or call our attention to it.

Mr. Cash: It says: "Whereas in the State of Georgia there has been, within the last three years, a shift in the

population among the various counties of this State, and, [fol. 43] there is today a demand on the part of some areas for a reappraisal and revision of the present allotment in the Congress and in the General Assembly and others," and among other things the House Resolution No. 296 authorized this House Apportionment Study Commission to consider the question of Congressional reapportionment.

Now, Mr. Mackay has testified he, I believe he testified that he appeared before this committee, and—

Judge Tuttle: Not yet, I don't think.

By Mr. Cash:

Q. Mr. Mackay, I hand you Plaintiffs' Exhibit No. 13.

A. This is a memorandum submitted by the DeKalb County Legislative Delegation to the Commission appointed pursuant to House Resolution 296 to study the advisability of reapportioning representation in the Congress and in the General Assembly, and to report to the 1962 General Assembly. I was the author of this brief and argument after consultation with the other members of my delegation. I did not present it personally. It was presented personally by Senator W. Hugh McWhorter of our Senatorial District, but this was filed officially with the Twitty Committee.

Judge Tuttle: Mr. Cash, we are really trying to simplify your case. Judge Morgan and I feel quite strongly that these actions really speak for themselves, and it makes [fol. 44] little difference what an individual member of the Legislature thought or intended to do. We feel quite strongly that your case will depend pretty largely on a question of law as to whether the disparity is so great as to warrant action.

Mr. Cash: One further thing, Your Honor, in reference to this particular report. The findings and conclusions of this committee, recommendations by the committee, the Commission makes the following recommendations: "No. 1, we do not recommend any changes in the Congressional District of Georgia at this time." And what we'd like to show is that there was some evidence before the committee requesting that the—that the present system was unfair

and disproportionate in representation, and we feel that this report alone would not indicate that. We feel that we needed some evidence to substantiate that there was some desire on behalf of some people who appeared before this committee, the fact that a Congressional District—present Congressional Districting was unfair and we conclude unconstitutional.

Judge Tuttle: I would suggest that you tender those documents that represent these different resolutions, and if in connection with any of these resolutions you need a witness' testimony, of course you may proceed with that, but [fol. 45] so that we will have them before us in an orderly—do you have them numbered already by the clerk?

OFFERS IN EVIDENCE

Mr. Cash: I have them, and I introduce into evidence Plaintiffs' Exhibit No. 10 and Plaintiffs' Exhibit No. 13.

Judge Tuttle: Those are agreed to be—10 and 13 are agreed to?

Mr. Cook: My inquiry of 13, I think there may be some question. We make—we submit it was not stipulated, 13, on the ground that it reflects nothing less than the opinion on the part of the committee itself—I mean, the witness, Mr. Mackay, and does not in itself reflect any opinion on the part of the Legislature as such. Therefore, it is objectionable as being immaterial.

Judge Tuttle: Now, this is the document just testified to that Mr. Mackay has presented to the committee?

The Witness: The delegation, the DeKalb Delegation and the State—the House and Senate, it represents the judgment of the four of us, and presents our reasoning as to why we feel this is a discriminatory situation in terms of our constituents' position in Congressional reapportionment, and I think these arguments—I would like an opportunity [fol. 46] to state why we feel that they are discriminatory.

Judge Morgan: These were arguments that were submitted to the committee?

The Witness: Our delegation, yes, sir.

Judge Tuttle: Well, again, we can't read it without delaying the trial too much. We will take this tender and admit it in evidence subject to objection, and rule on whether it is admissible or not. My tentative feeling is—I don't know whether either Judge Bell or Judge Morgan agree with me—any formal presentation made by the members of the House of Representatives to a committee created by the House of Representatives for a study of this purpose is admissible for whatever purpose it may have, but we are not passing on the admissibility finally until we have a chance to look at it. So this No. 13 is admitted subject to the objection of the Defendant, and 10 is admitted by stipulation.

(Whereupon Plaintiffs' Exhibit No. 10 and Plaintiffs' Exhibit No. 13 were admitted into evidence.)

Judge Tuttle: Just a second.

The Clerk: Plaintiffs' Exhibit 10 is a certified copy of the Assistant Clerk, House of Representatives, relative to House Resolution 296, and report of House reapportionment study commission and filed in Clerk's Office and distributed to members of General Assembly.

(Whereupon above document was marked for identification only as Plaintiffs' Exhibit No. 10.)

The Clerk: Plaintiffs' Exhibit No. 13 is a memorandum submitted by the DeKalb County Legislative Delegation to the Commission appointed pursuant to House Resolution 296, and so forth.

(Whereupon above document was marked for identification only as Plaintiffs' Exhibit No. 13.)

The Witness: Your Honor, I had not completed my answer.

Mr. Cook: No objection to that.

The Witness: May I complete my answer?

Judge Tuttle: I don't know what the question was.

The Witness: The question was what action we had made officially as members of the Legislature to get relief from the Legislature.

Judge Tuttle: Yes, you may proceed, subject to whatever objection Counsel may make. I don't know what the answer will be.

The Witness: I simply wish to state that when the Committee reported to the 1962 General Assembly and said that [fol. 48] it would not deal with the problem it was assigned to deal with, which among other things was Congressional reapportionment, I prepared a letter addressed—which I personally mailed to every member of the General Assembly asking that they take action in this area. This letter has not been introduced in evidence, but I wanted to report that that was done.

Judge Tuttle: Is such—is there a copy of that letter here?

Mr. Cash: Yes, Your Honor.

The Witness: It has not been identified, but I do identify it. It deals with both subjects.

Mr. Cash: Will you mark that Exhibit No. 14?

The Clerk: Plaintiffs' Exhibit No. 14 for identification, letter from James A. Mackay to members of the General Assembly, 10-10-61.

(Whereupon above document was marked for identification only as Plaintiffs' Exhibit No. 14.)

Mr. Cash: Your Honor, the Plaintiffs at this time would like to submit into evidence Plaintiffs' Exhibit No. 14.

Judge Tuttle: Is there objections?

Mr. Cook: No.

Judge Tuttle: Admitted without objection.

Mr. Cook: Wait a minute. I believe as to the other—I [fol. 49] believe—I'm sorry, Your Honor, but we do object for the same reason that we objected to No. 13, Plaintiffs' Exhibit No. 13 there.

Judge Tuttle: Well, that will be received subject to objection.

(Whereupon Plaintiffs' Exhibit No. 14 was admitted into evidence.)

By Mr. Cash:

Q. Mr. Mackay, were any other activities conducted by your delegation?

A. No, because the only—

Judge Tuttle: Now, if there were none, please don't answer why you didn't, Mr. Mackay. I don't believe that would be admissible.

Mr. Cash: Your witness.

Mr. Cook: No questions.

Judge Tuttle: Thank you, Mr. Mackay. You may be excused.

The Witness: Thank you.

Mr. Cash: Your Honor, I'd like to—the Plaintiffs would like to introduce now into evidence Plaintiffs' Exhibit No. 12, which is a certified copy under the seal of the Secretary of State, a true and correct copy of House Bill No. 610, [fol. 50] that was read for the first time in the House of Representatives on February 15, 1951, which was introduced by Representative Luther Alverson, providing for Congressional redistricting.

Judge Tuttle: Has that been stipulated?

Mr. Rodgers: Your Honor, we stipulated all of these exhibits. That is the one you showed me previously, isn't it?

Mr. Cash: We are just now introducing it into evidence.

Judge Tuttle: It may be received without objection.

(Whereupon Plaintiffs' Exhibit No. 12 was admitted into evidence.)

Mr. Cash: Please identify that as Exhibit No. 9.

The Clerk: Exhibit No. 9 is a map of the State of Georgia.

Mr. Cash: Indicating Congressional Districts.

The Clerk: Indicating Congressional Districts.

(Whereupon above document was marked for identification only as Plaintiffs' Exhibit No. 9.)

Mr. Cash: The Plaintiffs would like at this time to introduce into evidence Plaintiffs' Exhibit No. 9.

[fol. 51] Judge Tuttle: That one has been stipulated to, hasn't it?

Mr. Cash: Yes.

Judge Tuttle: It may be received without objection.

(Whereupon Plaintiffs' Exhibit No. 9 was admitted into evidence.)

Mr. Cash: The Plaintiffs call as their next witness Mrs. Virginia Stringer.

MRS. VIRGINIA STRINGER Called as a witness on behalf of the Plaintiffs, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Cash:

Q. What is your name, please?

A. Mrs. Virginia Stringer.

Q. Where do you reside?

A. 3403 Chestnut Drive, Doraville, Georgia.

Q. What county is that in?

A. DeKalb.

Q. Are you a member of any Civic organization?

A. Yes, sir. I am a member of the League of Women Voters.

Q. Which one?

A. Well, if you are a member of any League you are a [fol. 52] member of the League of the United States, and automatically a member of the League of Women Voters of Georgia and the League of Women Voters of DeKalb County.

Mr. Cook: I object to that remark on the ground it's wholly immaterial. This is not a jury trial, but just to say somebody is a member of that League is irrelevant. I understand we are not before a jury, but I think I owe it to my client.

Judge Tuttle: I think she said that any member of the League of Women Voters is automatically a member of the

United States League of Women Voters and the State and County League of Women Voters.

Mr. Cook: I misunderstood.

By Mr. Cash:

Q. Specifically, Mrs. Stringer, which are you a member of?

A. The League of Women Voters of DeKalb County.

Q. And what is your position in that organization?

A. I am First Vice President and Chairman of the Reapportionment Committee.

Q. What is the purpose of this organization?

A. To promote an interest of the citizens in better government.

Q. You mentioned that you were Chairman of the Reapportionment study committee.

A. For DeKalb County.

Q. For DeKalb County? What effort have you done in [fol. 53] that capacity?

A. Well, may I qualify, being Chairman of the Reapportionment Committee of DeKalb County, Reapportionment Committee of DeKalb County is a State item on the program of the League of Women Voters of Georgia.

Q. And you are a member of that Committee also?

A. I am a member of that Committee also.

Judge Tuttle: Mr. Cash, if you will restrict the inquiry as to what activities she may have participated in that capacity in dealing with the Legislature of the State of Georgia, what she has done outside of dealing with the Committees or the Legislature itself, we think, would not be relevant.

Mr. Cash: What I had in mind, Your Honor, it was just that—what activities had she done as far as getting the question of Congressional Reapportionment—

Judge Tuttle: You may ask her about that.

By Mr. Cash:

Q. What activities has your organization done in reference to getting before the members of the General Assembly and public generally—

Judge Tuttle: Just a minute. Just before the General Assembly.

By Mr. Cash:

Q. Before the members of the General Assembly?
[fol. 54] A. Our first action was in August of 1961 when we mailed copies of a suggestive re-districting for Congressional Districts to members of the House Legislative Re-apportionment Study Committee of the Twitty Committee. Then a couple of months later we held—in October we held a press conference at which we invited the members of the Committee. Only one of them was able to come, and we presented them at that time with mapped plans, showing that Congressional re-districting could be done. In December of '61, we sent them a letter calling their attention to the fact of the need for Congressional re-districting.

Judge Tuttle: This letter went to the members of the General Assembly?

The Witness: All members of the General Assembly, and then in April of 1962, just prior to the special session of the Legislature, we furnished them with a new plan that we had worked up for re-districting the Congressional Districts.

Mr. Cash: Your witness.

Mr. Cook: No questions.

Mr. Cash: Come down.

Judge Tuttle: Thank you.

Mr. Cash: At this time, Your Honor, I would introduce my associate in this case, Mr. Frank W. Scroggins.

Mr. Scroggins: Thank you.

Mr. Cash: The plaintiffs call to the stand Mr. Harry Adley. Would you please administer the oath?

Judge Tuttle: Yes, Mr. Adley wasn't here when the other witnesses were sworn.

The Clerk: Raise your right hand.

(Whereupon Mr. Harry Adley was placed under oath by the clerk.)

HARRY C. ADLEY, called as a witness on behalf of the Plaintiffs, after having first been duly sworn, testified as follows:

Direct examination.

By Mr. Cash:

Q. State your name, please.

A. Harry C. Adley.

Q. Where do you reside?

A. 81 Peachtree Place, Northeast, Atlanta, Georgia.

Q. What county is that?

A. Fulton County.

Q. What is your occupation?

A. I am a City Training and Urban Renewal Consultant.

[fol. 56] Q. Are you a member of any Civic organization?

A. I am Vice President of the Active Voters of Georgia.

Q. Has the Active Voters of Georgia taken any—made any effort in behalf of getting before the General Assembly of Georgia any recommendations considering reapportioning—re-districting of Congressional Districts.

A. We have made specific recommendations to the General Assembly in three forms. It is our practice every year to send in the month of December a letter to each Legislator in the General Assembly setting forth our views on matters of good government at the State level. For the previous two years we have made strong recommendation that the Congressional District be re-worked, and we thought so as to reduce the disparity. We have also made representation in person before the House Committee known as the Twitty Committee, and then for the past year we have also made recommendation to the DeKalb and Fulton delegations at their pre-legislative forums for the same purpose.

Q. That's been the extent of your activities?

A. They have been the three specific interest, yes.

Mr. Cash: Your witness.

Mr. Cook: No questions.

Judge Tuttle: Thank you, Mr. Adley.

[fol. 123]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

Civil Action No. 7889

JAMES P. WESBERRY, JR., and
CANDLER CRIM, JR., Plaintiffs,

v.

S. ERNEST VANDIVER, as Governor of the
State of Georgia and
BEN W. FORTSON, JR., as Secretary of the
State of Georgia, Defendants.

Before Tuttle and Bell, Circuit Judges and Morgan, Dis-
trict Judge.

OPINION—June 20, 1962

Circuit Judge Bell:

This is the third in a series of suits filed in this court immediately following the decision of the Supreme Court in *Baker v. Carr*, 1962, 369 U.S. 186, 82 S.Ct. 691, 7 L.Ed. 2d 663. In *Sanders v. Gray*, N.D.Ga., 1962, 203 F.Supp. 158,¹ we struck down the Georgia County Unit System of primary elections in the form in which it then existed because of resulting invidious discrimination to the plaintiffs who were residents of Fulton County. Then in *Toombs v. Fortson*, Civil Action No. 7883, N.D.Ga., 1962, — F.Supp. —, again on the basis of resulting invidious discrimina- [fol. 124] tion, we found the General Assembly of Georgia to be malapportioned and required apportionment of at least one body of the Assembly according to population. In that case, and for the same reason, we struck down the statute requiring the election of senators on a rotation basis

¹ Now pending on appeal in the Supreme Court.

among the counties in each senatorial district. We withheld injunctive and other relief pending action on the part of the responsible state officials, executive and legislative, before the 1963 session of the General Assembly appropriate to ending the proscribed discrimination. Our action in each of these cases was premised on the denial to plaintiffs of equal protection of the laws under the Fourteenth Amendment to the Constitution.

Plaintiffs here are residents and qualified voters of Fulton County, Georgia, and as such are entitled to vote in the primary and general elections for members of the House of Representatives of the Congress of the United States from the Fifth Congressional District of Georgia. They likewise premise their cause on the Fourteenth Amendment, seeking the invalidation of the Georgia statute which sets up the districts for the election of the ten members of the House from Georgia and which provides the method of election. Georgia Code, Section 34-2301. They contend also that this statute is void as being contrary to Art. I, Section 2 of the Constitution of the United States which provides that members of the House of Representatives shall be elected by the people.²

Jurisdiction and three-judge status are based on Title 28, USCA, Sections 1343, 2201-2202, 2281, 2284 and 42 USCA, Sections 1983 and 1988: Injunctive relief is sought [fol. 125] against the defendants, the Governor and Secretary of State of Georgia, to the end that no elections may be held except on a state-at-large basis pending redistricting on "an equitable and representative" basis.

Georgia was awarded two members in the House of Representatives of the Congress under the Act of April 14, 1792 which apportioned representatives among the several states: 1 Stat. 253 (1792). The number of representatives allocated to Georgia increased gradually, based on population, from two to nine under the census of 1830. 2 Stat. 669 (1811); 3 Stat. 651 (1822); 4 Stat. 516 (1832). And elections in some states were on a district basis but in Georgia and in some of the other states they were on a

² "The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, . . ."

state-at-large basis for nearly fifty years. Congress, in 1842, provided that representatives, where a state was entitled to more than one representative, should be elected from districts composed of contiguous territory, equal in number to the number of representatives to which a state might be entitled with no one district electing more than one representative. 5 Stat. 491 (1842). Georgia set up the district system in 1843 based on the 1840 census and has adhered to it at all times since then, including the election of members to the Congress of the Confederate States of America during the period of secession. Ga. Code, 1861, p. 12.

Districts were not required by the Apportionment Act of 1852, 9 Stat. 433 (1852), but were again required in 1862. 12 Stat. 572 (1862). In 1872 another element was added to the system. Not only must each district be of contiguous territory but also of an equal number of inhabitants as nearly as practicable. 17 Stat. 28 (1872). Under [fol. 126] this Act Georgia was allocated nine representatives. Congress continued this system in 1882 and 1891 and the number of representatives from Georgia was increased to ten in 1882 and eleven under the 1891 Act. 22 Stat. 5 (1882); 26 Stat. 735 (1891). In 1901 Congress added the requirement that the districts be compact, 31 Stat. 733 (1901), and the 1911 Apportionment Act provided that:

"Representatives to the Sixty-third and each subsequent Congress shall be elected by districts composed of a contiguous and compact territory and containing as nearly as practicable an equal number of inhabitants." 37 Stat. 13, 14 (1911).

There was no reapportionment after the census of 1920 and from 1910 to 1930 Georgia had twelve seats in the House. The Reapportionment Act of 1929, 46 Stat. 13, 26 (1929), provided that the House be reapportioned after each decennial census but failed to re-enact the requirements of compactness, contiguity, and equality of population in each district. 46 Stat. 13 (1929), Title 2, USCA, Section 2.

Under the Act Georgia lost two seats in the House and the statute here under attack followed in 1931. Ga. Laws,

1931, p. 46; Code Section 34-2301, et seq. The General Assembly divided the state into ten congressional districts on the basis of allocating the several counties to the respective districts, and there have been no changes in the allocations to date.

The facts are not in dispute and are ample for final decision on the merits. The following table shows the population of each congressional district in 1930 as compared with 1960:

[fol. 127]

District	Population, 1930	Population, 1960
First	328,214	379,933
Second	263,606	301,123
Third	339,870	422,198
Fourth	261,234	323,489
Fifth	396,112	823,680
Sixth	281,437	330,235
Seventh	271,680	450,470
Eighth	241,847	291,185
Ninth	218,496	272,154
Tenth	289,267	348,379

The burden of the complaint is the disproportionate population of the Fifth Congressional District as compared with the other districts. It is comprised of Fulton, DeKalb, and Rockdale Counties. The growth of Fulton and DeKalb Counties has been spectacular in recent years with the population of DeKalb increasing from 70,278 in 1930 to 256,782 in 1960, and that of Fulton from 318,587 to 556,326. It is to be noted that the population of each of the ten congressional districts has increased from a low of slightly under fifteen per cent in the Second District to just over one hundred eight per cent in the Fifth District.

It is the position of plaintiffs that the population of each district should be within a range of ten to fifteen per cent of the average district population based on a division of the number of districts into the total population of the

state.³ The population of Georgia according to the 1960 census was 3,942,936. For our purposes,⁴ we will take 394,000 under the theory of plaintiffs as an average and examine [fol. 128] the facts using the suggested variance of fifteen per cent. Under this theory no district should have a population of more than 453,000 nor less than 335,000. Applying the same theory to the districts as constituted in 1931 when the population of Georgia under the 1930 census was 2,908,506, an approximate average per district of 291,000, no district should have had a population of more than 335,000 nor less than 247,000.

The aforesaid table demonstrates that only the Fifth and Ninth Districts substantially varied from the fifteen per cent standard suggested by plaintiffs on the 1930 basis. The Second, Eighth, and Ninth Districts fell substantially more than fifteen per cent short of the average according to the 1960 census while the Fifth dramatically exceeded the variance.

We hasten to add that we neither expressly nor impliedly adopt any mathematical standard. We know of no basis for an exact standard. Cf. *Sanders v. Gray*, supra, where sufficient basis existed. We use plaintiffs' suggested standard here in amplification of their contentions.

It is clear by any standard however that the population of the Fifth District is grossly out of balance with that of the other nine congressional districts of Georgia and in fact, so much so that the removal of DeKalb and Rockdale Counties from the District, leaving only Fulton with a population of 556,326, would leave it exceeding the average by slightly more than forty per cent. It is apparent that giving effect to any reasonable population based standard will require the division of Fulton County into more than [fol. 129] one district, something not heretofore done in Georgia. The population of Fulton County alone exceeds that of the nearest district in size—the seventh—by over twenty three per cent. A chain reaction effecting the make

³ An adoption of the view of the American Political Science Association.

⁴ To the nearest one thousand.

up of every congressional district in the state may be set off. We say this to demonstrate the legislative nature of the problem where a broad state-wide approach will be needed. We also point out that such a formula as suggested by plaintiffs, requiring as it would the division of Fulton County, may or may not be agreeable to the majority of the voters of Fulton County, assuming that they are entitled to a voice in the matter, and this again points up the desirability of solution if at all possible in the legislative forum. Of course, a division of Fulton County has not been suggested, only the formula.

The problem here is not peculiar to Georgia. For example, Florida has recently substantially changed its congressional districts by reason of the addition of four new congressmen making a total of twelve. The districts there now range in population from a low of 241,250 to a high of 660,345 as compared to the Florida average of 412,630 a variance greatly exceeding the suggested standard. Dade County with a population of 935,047 is divided among two districts, one consisting of a part of Dade County only, and the other consisting of an adjoining county and the balance of Dade County. Duvall, Hillsborough, and Pinellas Counties each constitutes a district under the new plan with populations respectively of 455,411, 397,788, and 374,665, a sharp example of the variance in population per district if counties are to continue as a basis for districts except where the population of a county is so large as to require division.

There are 435 congressional districts in the United States. Twenty two congressmen will be elected state-at-large in 1962. Of the remaining 413, the Fifth District of [fol. 130] Texas has the largest population, 951,527. The Fifth District of Georgia, here under discussion is next. There are twenty two districts with populations exceeding 600,000. Eighty districts have populations more than fifteen per cent above the state average, while ninety have populations of more than fifteen per cent below the state district average. Using ten per cent as a variance, or tolerance, one hundred eight districts are above and one hundred twenty five are below the average, a total of two hundred thirty three or more than one-half of all congressional districts. These figures in no way reflect on the problem of

deprivation of rights of the type here asserted through use of the gerrymander, a problem with which we are not concerned here but one that could well be within the rationale of any decision reached.

The following table shows the considerable difference in population in the named states between the districts having the highest and lowest number of inhabitants. Even a cursory examination of it indicates that in virtually no state do the districts contain "as nearly as practicable an equal number of inhabitants" as was formerly required by the Congress.

The table is based on only four hundred thirteen out of the total of four hundred thirty five congressional districts. Only forty two states are listed. The twenty two of the seats to be filled by elections at-large are: Alabama—8, Alaska—1, Connecticut—1, Delaware—1, Hawaii—2, Maryland—1, Michigan—1, Nevada—1, New Mexico—2, Ohio—1, Texas—1, Vermont—1, and Wyoming—1. The districts shown are as constituted January 1, 1963 while the populations are according to the 1960 census.

<u>STATE</u>	<u>AVERAGE POPULATION PER DISTRICT</u>	<u>HIGH</u>	<u>LOW</u>
Arizona	434,053	663,510	198,236
Arkansas	446,568	575,385	332,844
California	414,009	591,822	301,172
Colorado	438,486	653,954	195,551
Connecticut	507,046	653,589	318,942
Florida	412,629	660,345	237,235
Georgia	394,311	823,680	272,154
Idaho	333,595	409,949	257,242
Illinois	420,100	557,221	277,169
Indiana	423,863	697,567	290,596
Iowa	393,933	403,442	353,156
Kansas	435,722	539,592	373,583
Kentucky	434,022	610,947	350,839
Louisiana	407,127	536,029	263,850
Maine	484,632	505,465	484,632
Maryland	442,955	711,045	243,570
Massachusetts	429,048	478,962	376,336
Michigan	434,621	802,994	177,431
Minnesota	426,733	482,872	375,475
Mississippi	435,628	608,441	295,072
Missouri	431,881	505,854	381,602
Montana	337,383	400,573	274,194
Nebraska	470,443	530,507	404,695
New Hampshire	303,460	331,818	275,103
New Jersey	404,452	585,586	255,165
New York	409,324	469,908	348,940
North Carolina	414,195	491,461	277,861
North Dakota	316,223	333,290	299,156
Ohio	422,017	726,156	236,288
Oklahoma	388,047	552,863	227,692
Oregon	442,171	522,813	265,164
Pennsylvania	419,235	553,154	303,026
Rhode Island	429,744	459,706	399,782
South Carolina	397,099	531,555	272,220
South Dakota	340,257	497,669	182,845
Tennessee	396,343	627,019	223,387
Texas	435,439	951,527	216,371
Utah	445,313	572,654	317,973
Virginia	396,694	539,618	312,890
Washington	407,602	510,512	342,540
West Virginia	372,084	422,046	303,098
Wisconsin	395,177	530,316	236,870

It is readily apparent from these undisputed facts that plaintiffs, not unlike many millions of other citizens throughout the Republic, are being deprived of equal treatment arising from the excess in population of their congressional district as compared with that of other districts in Georgia. Such unequal or discriminatory treatment to be actionable, if judicially cognizable, a matter to be hereinafter discussed, must reach the point of invidiousness. *Baker v. Carr*, supra; *Sanders v. Gray*, supra; and *Toombs v. Fortson*, supra.

Our jurisdiction of a matter such as this can no longer be doubted; and it is settled that plaintiffs asserting rights of the type here involved have standing to sue. *Baker v. Carr*; *Wood v. Broom*, 1932, 287 U.S. 1, 72 S.Ct. 648, 77 L.Ed. 131; *Colegrove v. Green*, 1946, 328 U.S. 549, 66 S.Ct. 1198, 90 L.Ed. 1432; *Scholle v. Hare*, 1962, 8 L.Ed. 1; and *W.M.C.A., Inc. v. Simon*, 1962, 30 L.W. 3383. We hold too that the issue presented is justiciable but that question requires some elaboration.

And if the issue were one solely of state action under the Fourteenth Amendment, separate and apart from rights and duties devolving on the Congress under the Constitution and from congressional action or inaction, our problem would be greatly simplified. We would apply the test for invidious discrimination by considering all relevant factors, including a determination of rationality of state policy behind the statutory system, arbitrariness, whether the system has a historical basis in our political institutions, together with the presence or absence of political remedy. *Baker v. Carr*; *Sanders v. Gray*; and *Toombs v. Fortson*. The test is to be made on the sum of all of these factors and the asserted violation must be clear for we are dealing with the constitutionally based relationship between federal and state governments. *American Federation of Labor v. Watson*, 1946, 327 U.S. 582, 66 S.Ct. 761, 90 L.Ed. 873; *McGowan v. Maryland*, 1961, 366 U.S. 420, 81 S.Ct. 1101, 66 L.Ed. 2d 393.

[fol. 133] If the state action—here the statute setting up congressional districts—offends fundamental political concepts inherent in a republican form of government, giving

due regard to each factor and the rights of the plaintiffs and all others in their class as compared to those similarly situated in other congressional districts of Georgia, the statute must be stricken because of being discriminatory to the degree of invidiousness.

In our view the statute here when enacted reflected a rational state policy to set up the congressional districts in Georgia with some reasonable relation to population. On the other hand it now reflects a system which has become arbitrary through inaction when considered in the light of the present population of the Fifth District and as measured by any conceivable reasonable standard. The statute does have a historical basis in that it is of the type used in the remaining states of the Union with but few exceptions for more than one hundred years, and of a type that was required by the Congress from 1872 through 1929. As to political remedy, we only recently required by our decision in *Toombs v. Fortson* that the General Assembly of Georgia be fairly apportioned. It may well be that the arbitrariness which we find to be present as the statute relates to the Fifth District and to the rights of plaintiffs will be corrected by the reapportioned Assembly.

Our view is buttressed by a due regard for the admonition in *Baker v. Carr* that a "judicially manageable standard" be adopted. This dictates that a reasonable time be afforded for the normal state government processes, where there is a substantial chance of relief as we believe there is, to run their course.

[fol. 134] So tested, from the standpoint of Fourteenth Amendment rights or the right to choose Representatives under Art. I, Section 2 of the Constitution, we do not now find proscribed invidiousness. We would deny relief at this time but retain jurisdiction to again consider the contentions of plaintiffs, if necessary, after the expiration of a reasonable time for relief by way of political remedy.

But we cannot rest our decision at or on this point because the problem goes deeper. We are not dealing simply with state action under the Fourteenth Amendment or in violation of Art. I, Section 2 of the Constitution for the state action complained of is inextricably subject to the rights allocated to Congress under the Constitution. And defendants are entitled to their due—a final decision.

6
As was said for the majority in *Colegrove v. Green*, supra, where similar relief was sought in a suit alleging malapportioned congressional districts:

"The petitioners urge with great zeal that the conditions of which they complain are grave evils and offend public morality. The Constitution of the United States gives ample power to provide against these evils. But due regard for the Constitution as a viable system precludes judicial correction. Authority for dealing with such problems resides elsewhere. Article I, Section 4 of the Constitution provides that 'The Time, Places and Manner of holding Elections for . . . Representatives, shall be prescribed in each state by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations . . .'. The short of it is that the Constitution has conferred upon Congress exclusive authority to secure fair representation by the States in the popular House and left to that House determination whether States have fulfilled their responsibility. If Congress failed in exercising its powers, whereby standards of fairness are offended, the remedy ultimately lies with the people. Whether Congress faithfully discharges its duty or not, the subject has been committed to the exclusive control of Congress. An aspect of government from [fol. 135] which the judiciary, in view of what is involved, has been excluded by the clear intention of the Constitution cannot be entered by the federal courts because Congress may have been in default in exacting from States obedience to its mandate."

Only seven members of the court participated in this decision, two concurring in the opinion by Justice Frankfurter and Justice Rutledge concurring in the result to make the majority. His concurrence was based on the view that

⁵ The Constitution enjoins upon Congress the duty of apportioning Representatives "among the several states . . . according to their respective numbers. Article I, Section 2. Congress has at times been heedless of this command and not apportioned ac-

the complaint should be dismissed for want of equity and we perceive this to be the holding of the majority. He recognized that the court had jurisdiction and that a justiciable issue was presented, citing *Smiley v. Holm*, 1932, 285 U.S. 355, 52 S.Ct. 397, 76 L.Ed. 795. He pointed out that four of the nine justices in *Wood v. Broom*, *supra*, where the majority dismissed a similar suit on the ground that there was no congressional requirement after the 1929 Apportionment Act of compactness, contiguity or equality in the number of inhabitants for congressional districts, were of the opinion that dismissal should have been for want of equity. His basis for want of equity holding was that the court would be pitched into delicate relation to the functions of state officials and the Congress compelling them to take [fol. 136] action which they have declined to take voluntarily, and because the short time remaining before the election made effective relief doubtful. He thought a state-at-large election would deprive Illinois citizens of representation by districts "which the prevailing policy of Congress demands"; citing 46 Stat. 26, c. 28, as amended, Title 2, USCA, Section 2a. He concluded:

"If the constitutional provisions on which appellants rely give them the substantive rights they urge, other provisions qualify those rights in important ways by vesting large measures of control in the political subdivisions of the government and the state. There is not, and could not be except abstractly, a right of absolute equality in voting. At best there could be only a rough approximation. And there is obviously considerable latitude for the bodies vested with those powers to exercise their judgment concerning how best to attain this, in full consistency with the Constitution."

cording to the requirements of the census. It has never occurred to anyone that the court could mandamus the Congress to perform its mandatory duty to apportion. *Colegrove v. Green*, pp. 554-555.

Article I, Section 5 of the Constitution makes each House the sole judge of the qualifications of its own members.

"The right here is not absolute. And the cure sought may be worse than the disease."

Justices Douglas and Murphy joined Justice Black in a dissent. It was their view that the case involved the federally protected right to vote, Article I, Section 2, Const., Fourteenth Amendment, Section 2, and it was implicit in their dissent that they considered this right to be absolute, equating it with a denial of the franchise on account of race, creed or color. Cf. *Ex parte Yarbrough*, 1884, 110 U.S. 651, 4 S.Ct. 152, 28 L.Ed. 274; *Nixon v. Herndon*, 1927, 273 U.S. 536, 47 S.Ct. 446, 71 L.Ed. 759; *Lane v. Wilson*, 1939, 307 U.S. 268, 59 S.Ct. 872, 83 L.Ed. 1281; and *United States v. Classic*, 1941, 313 U.S. 299, 61 S.Ct. 1031, 85 L.Ed. 1368. They would have invalidated the state apportionment statute and afforded plaintiffs the right to [fol. 137] vote in state-at-large elections. They thought the state had violated a duty to bring about approximately equal representation of citizens in the Congress.

We have dwelt at some length on the *Colegrove* case because it is decisive here. It is in point and a controlling precedent if still in force. It has been cited as authority in cases involving only state action where perhaps it is no longer a controlling authority in view of *Baker v. Carr*. Cf. *South v. Peters*, 1950, 339 U.S. 276, 70 S.Ct. 641, 94 L.Ed. 834; *Kidd v. McCanless*, 1956, 352 U.S. 920, 77 S.Ct. 223, 1 L.Ed. 2d 157; *Radford v. Gary*, 1957, 352 U.S. 991, 77 S.Ct. 559, 1 L.Ed. 2d 540. We make our determination of its efficacy by a consideration of the preservative treatment given it in *Gomillion v. Lightfoot*, 1960, 364 U.S. 339, 81 S.Ct. 125, 5 L.Ed. 110 and *Baker v. Carr*.

Gomillion involved a statute gerrymandering the City of Tuskegee, Alabama, so as to deny the vote to colored citizens. Justice Frankfurter, author of *Colegrove*, wrote the decision for the eight justices making the majority, Justice Douglas concurring in the result but adhering to his dissent in *Colegrove*, and *South v. Peters*, supra. In distinguishing *Colegrove* it was said that the dismissal of the complaint was affirmed "on the ground that it presented a subject not meet for adjudication." The court stated that the decisive facts of *Gomillion* were wholly different from the

considerations found controlling in *Colegrove*. The complaint in *Colegrove* was only as to the dilution of the strength of votes as a result of legislative inaction over a course of many years as compared with affirmative legislative action to deprive complainants of their votes in *Gomillion*.

[fol. 138] "... When a legislature thus singles out a readily isolated segment of a racial minority for special discriminatory treatment, it violates the Fifteenth Amendment. In no case involving unequal weight in voting distribution that has come before the Court did the decision sanction a differentiation on racial lines whereby approval was given to unequivocal withdrawal of the vote solely from colored citizens. Apart from all else, these considerations lift this controversy out of the so-called 'political' arena and into the conventional sphere of constitutional litigation." pp. 346-347

"... While in form this is merely an act redefining metes and bounds, if the allegations are established, the inescapable human effect of this essay in geometry and geography is to despoil colored citizens, and only colored citizens, of their theretofore enjoyed voting rights. That was not *Colegrove v. Green*." p. 347

Thus *Gomillion* taught in 1960 that *Colegrove* was still a living precedent and we must determine if it was overruled or sapped of its strength by *Baker v. Carr*. That case, in one fell swoop, lifted state political action offending the Fourteenth Amendment from the ancient doctrine whereunder it was thought improper for courts to enter the "political thicket" so often involved in reapportionment and related problems.

We have carefully considered its import and have noted that the court was at pains to distinguish *Colegrove*. The rationale of the decision goes no further than to open the doors of the courts for the purpose of adjudicating consistency of state action with the Federal Constitution where no question is concerned involving a coequal political

branch of the government. The treatment of *Colegrove* in *Gomillion* was reiterated. The court stated that *Colegrove* appeared to be based on a refusal to exercise equity's powers.

[fol. 139] The various concurring opinions in *Baker v. Carr* shed much light on the meaning of the majority opinion. Justice Douglas put aside the problem of "political" questions involving the distribution of power between the Court, Congress and the Chief Executive, and noted that the power of Congress to prescribe qualifications for voters and thus override state law was not in issue. He stated that the Federal Judiciary does not intervene where the Constitution assigns a particular function wholly and indivisibly to another department, and then in closing stated that the state legislative apportionment question before the court was removed from the impediment of *Colegrove* and the cases following it by the treatment given those cases in the majority opinion, i.e., that they were based on a refusal to exercise equity's power. Justice Clark also distinguished *Colegrove*. Justice Frankfurter in dissenting stated that the appellants sought to distinguish *Colegrove* on the ground that congressional, not state legislative, apportionment was involved, and we believe that this is the course that the majority of the court took. Justice Harlan described the holding in *Colegrove* as a declination by the court to adjudicate a challenge to the apportionment of seats by a state in the federal House of Representatives in absence of a controlling act of Congress, citing *Wood v. Broom*, *supra*.

It would be extraordinary indeed for the court to have departed any more than was absolutely necessary from the previous standard of withholding judicial relief in matters of the kind involved in *Baker v. Carr*, and a good reason to preserve the *Colegrove* doctrine while at the same time reversing the body of law as it concerned state action alone was that fairly apportioned state legislatures might [fol. 140] well alleviate congressional district disparity. But whatever the reason we think *Colegrove* stands and so long as it does it will be our guide.

We do not deem it to be a precedent for dismissal based on the non-justiciability of a political question involving

the Congress as here, but we do deem it to be strong authority for dismissal for want of equity when the following factors here involved are considered on balance: a political question involving a coordinate branch of the federal government; a political question posing a delicate problem difficult of solution without depriving others of the right to vote by district, unless we are to redistrict for the state; relief may be forthcoming from a properly apportioned state legislature; and relief may be afforded by the Congress.³

[fol. 141] Being persuaded of a want of equity in the position of plaintiffs to the extent that no cognizable constitutional claim is presented under the facts and subsisting authorities, their cause must be and is Dismissed. ●

This 20th day of June, 1962. ●

Filed June 20, 1962.

Griffin B. Bell, United States Circuit Judge, Fifth Circuit; Lewis R. Morgan, United States District Judge, Northern District of Georgia

TUTTLE, Circuit Judge, concurring in part and dissenting in part:

I concur in that part of the Court's opinion that denies an injunction at this time. I also concur in the statement of the facts. Because, however, I disagree with the conclusion that the suit should be dismissed, and because my conclusion that the injunction should be denied is based on somewhat different reasoning than that of my colleagues, I consider it appropriate to state my separate views.

The basis on which I would hold that the Court should now decline to grant the relief sought by these plaintiffs is simple. In *Baker v. Carr* the Supreme Court stressed as one of the factors which it considered as warranting a federal court's granting relief in a case of legislative mal-

³ Representative Celler in a hearing before the Committee on the Judiciary, House of Representatives, recently stated that it was impracticable to draw congressional district lines in Washington. He stated that the economic and social interests of an area, its topography and geography, means of transportation, the desires

apportionment within a state the absence of any practical means by which the plaintiffs might hope to obtain relief at the hands of the state legislature. We also stressed this circumstance in the earlier cases decided by this Court. See *Sanders v. Gray*, N.D.Ga., 1962, 203 F. Supp. 158, and *Toombs v. Fortson*, N.D.Ga., 1962, — F. Supp. —.

[fol. 142] In view of the fact that this Court has now held that the Legislature of the State of Georgia must be apportioned in such a manner as to make it more responsive to population, it cannot be said now that there is no reasonable likelihood that the Georgia Legislature as properly constituted will fail in the future to rectify the gross inequalities that we find now exist in the Georgia Congressional Districts. I think, therefore, that it is a part of judicial statesmanship for this Court to refrain from stepping into this particular area until after the Legislature of the State of Georgia has had a fair opportunity to correct the present abuses.

The point of difference between my views and those of my colleagues is that I am not convinced that if the Georgia Legislature persists in the future in maintaining congressional districts as grossly disproportionate as they are today, the federal courts would have no power to take cognizance of such a situation and declare the state apportionment laws unconstitutional.

The view of the majority appears to be that even though the State Legislature takes no remedial action, the plaintiffs may not obtain the relief they seek at the hands of this Court. This, they say, results from the fact that the United States Congress has the power under Article I, Section 4, of the Constitution to require the state governments

of the inhabitants as well as their elected representatives, and the political factors should all be considered and that state legislatures are far better equipped to determine and evaluate those factors than either the Congress or any national agency it might designate to do so. Under the proposed legislation the establishment of districts would be subject to review by the Federal District Courts. Hearing, June 24, 1959, before Subcommittee No. 2 of the Committee on the Judiciary, House of Representatives, 86th Congress, 1st Sess., on House Resolutions 73, 575, 8266 and 8473.

to eliminate the inequalities like that here complained of. The provisions of that Section are:

"The times, places and manner of holding elections for . . . Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations . . ."

The majority opinion reads the several opinions of the Justices of the Supreme Court in *Baker v. Carr* as perpetuating what my colleagues construe to be the rationale of [fol. 143] *Colegrove v. Green*, 328 U.S. 549, that is that where Congress has the power to deal with a matter which the States may also regulate, federal courts should not interfere with action taken by the State, even though in violation of the Fourteenth Amendment to the Constitution, because "due regard for the Constitution as a viable system precludes judicial correction." 328 U.S. 549, at 554.

It must be borne in mind that the opinion which contained the foregoing language was approved in whole by only three members of the Supreme Court out of the seven who participated in the decision. A fourth member of the Court, thus making a majority, concluded that the judgment of the lower court should be affirmed, but Justice Rutledge's views make it clear that he did not accept the theory or principle that it was beyond the competence of the federal courts to grant the relief sought, but rather that he felt the plaintiffs had not demonstrated their right to equitable relief under the circumstances; including the fact that the upcoming election was so imminent as to make it "doubtful whether action could, or would, be taken in time to secure for petitioners the effective relief they seek."

I am of the firm conviction that the majority opinion of the Supreme Court in *Baker v. Carr* makes it clear that nothing said in any of the opinions in *Colegrove v. Green* denies to the federal courts the power to grant relief in a congressional district case if the complaint and proof establish a right to equitable relief from grossly disproportionate districting. On page 226 of its opinion in *Baker v. Carr*, the majority outlines what constitutes a non-jus-

tlicable "political question." It does this by enumerating the type of question that the Court had theretofore held to be non-justiciable "political questions."

[fol. 144] "We have no question decided, or to be decided, by a political branch of government co-equal with this Court. Nor do we risk embarrassment of our Government abroad, or grave disturbance at home if we take issue with Tennessee as to the constitutionality of her action here challenged. Nor need the appellants, in order to succeed in this action, ask the Court to enter upon policy determinations for which judicially manageable standards are lacking."

As to the first of these questions referred to by the Court, which is the one which the majority here feels prevents judicial action by this Court, I consider it necessary to point out the following: Complete relief can be granted to the plaintiffs here without the slightest interference with prerogatives or powers of the Federal Congress. That body, under the reapportionment statutes referred to in the majority opinion, has directed the State of Georgia to divide the people of the State into congressional districts. Presumably Congress intended for the State to do so within constitutional standards. The fact that Congress did not expressly prescribe that congressional districts should be reasonably equal as to population does not, of course, prevent the State from districting according to equal population, nor, it seems to me, does it excuse the State from failing to do so if a failure to do so works an unconstitutional deprivation on the plaintiffs.

I find nothing in either *Colegrove v. Green* or in the language of the Supreme Court in *Baker v. Carr* discussing *Colegrove* in conflict with the views expressed here: that where Congress has directed a State to "regulate" a matter which the Constitution itself says shall initially be dealt with by the State, the State may not then, immune from judicial interference, exercise such power in an unconstitutional manner merely because Congress also has power to "at any time by law make or alter such regulations."

[fol. 145] It is, therefore, my opinion that this Court

should deny the injunction at this time, but that it should retain jurisdiction of the cause in order to give the State Legislature an opportunity to remedy what this Court has unanimously found to constitute a gross inequity. In default of such action by the State within a reasonable time, the Court should proceed to grant the relief prayed for.

This 20th day of June, 1962.

Elbert P. Tuttle, United States Circuit Judge, Fifth Circuit.

Filed June 20, 1962.

[fol. 146] [File endorsement omitted]

IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

[Title omitted]

NOTICE OF APPEAL TO THE SUPREME COURT OF THE
UNITED STATES—Filed August 17, 1962

I.

Notice is hereby given that James P. Wesberry, Jr. and Candler Crim, Jr., the plaintiffs above named, hereby appeal to the Supreme Court of the United States from the final Order dismissing the Complaint entered in this action in this Court on June 20, 1962. This appeal is taken pursuant to 28 U.S.C. Sec. 1253.

II.

The clerk will please prepare a transcript of the record in this cause, for transmission to the Clerk of the Supreme Court of the United States, and include in said transcript the following: All pleadings and exhibits of plaintiffs and defendants.

III.

The following questions are presented by this appeal:

- (1) Whether Georgia Code Section 34-2301 deprives the [fol. 147] vided by the Fourteenth Amendment to the Constitution of the United States.

- (2) Whether Georgia Code Section 34-2301 abridges the privileges and immunities of plaintiffs as provided by the Fourteenth Amendment to the Constitution of the United States.
- (3) Whether Georgia Code Section 34-2301 deprives plaintiffs of liberty and property without due process of law as provided by the Fourteenth Amendment to the Constitution of the United States.
- (4) Whether Georgia Code Section 34-2301 is contrary to Article I, Section II, Clause I of the Constitution of the United States and therefore unconstitutional.

Frank T. Cash

Filed August 17, 1962

[fol. 149] Clerk's Certificate to foregoing transcript (omitted in printing).

[fol. 150]

SUPREME COURT OF THE UNITED STATES

No. 507—October Term, 1962

JAMES P. WESBERRY, Jr., et al., Appellants,

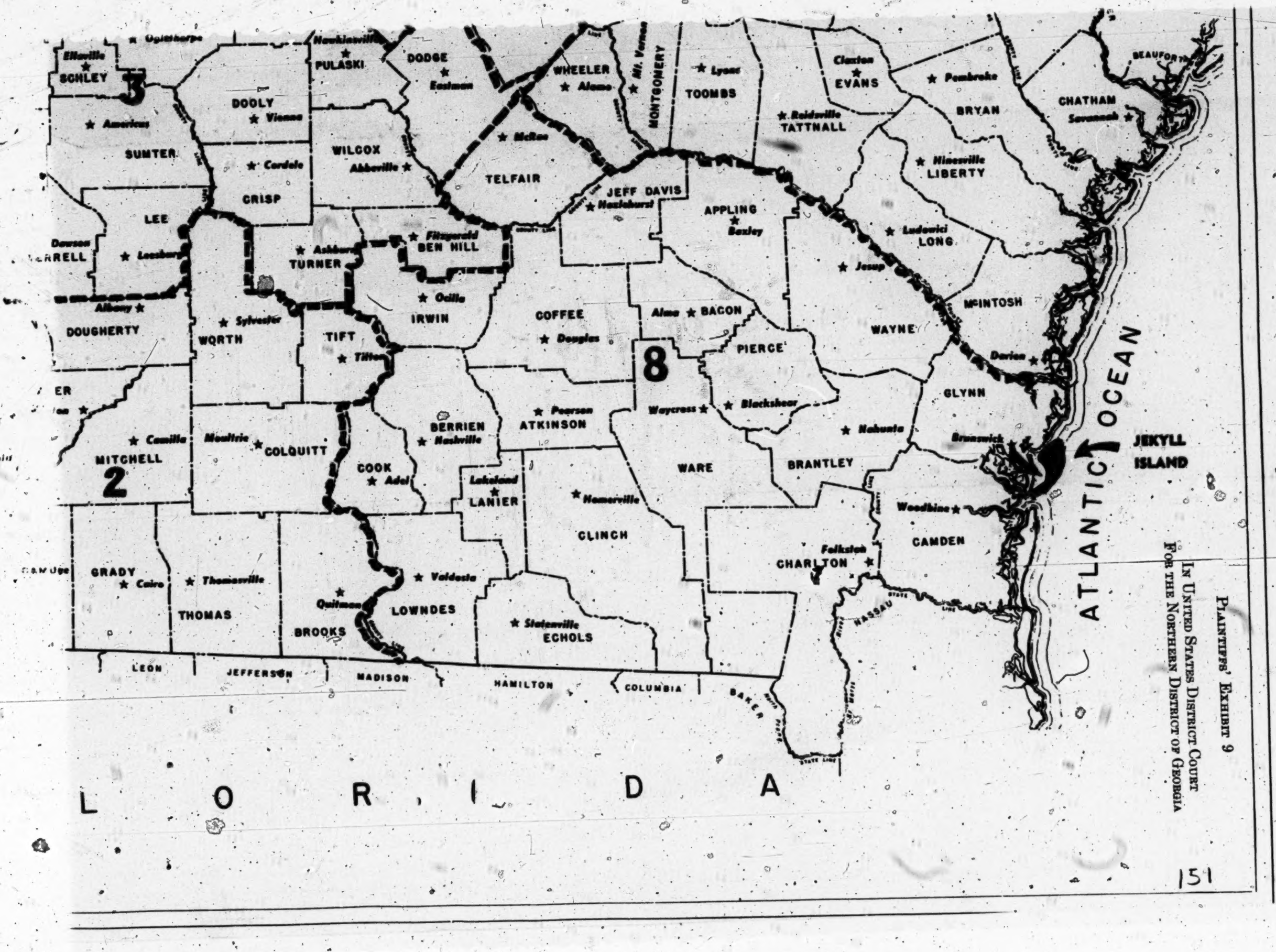
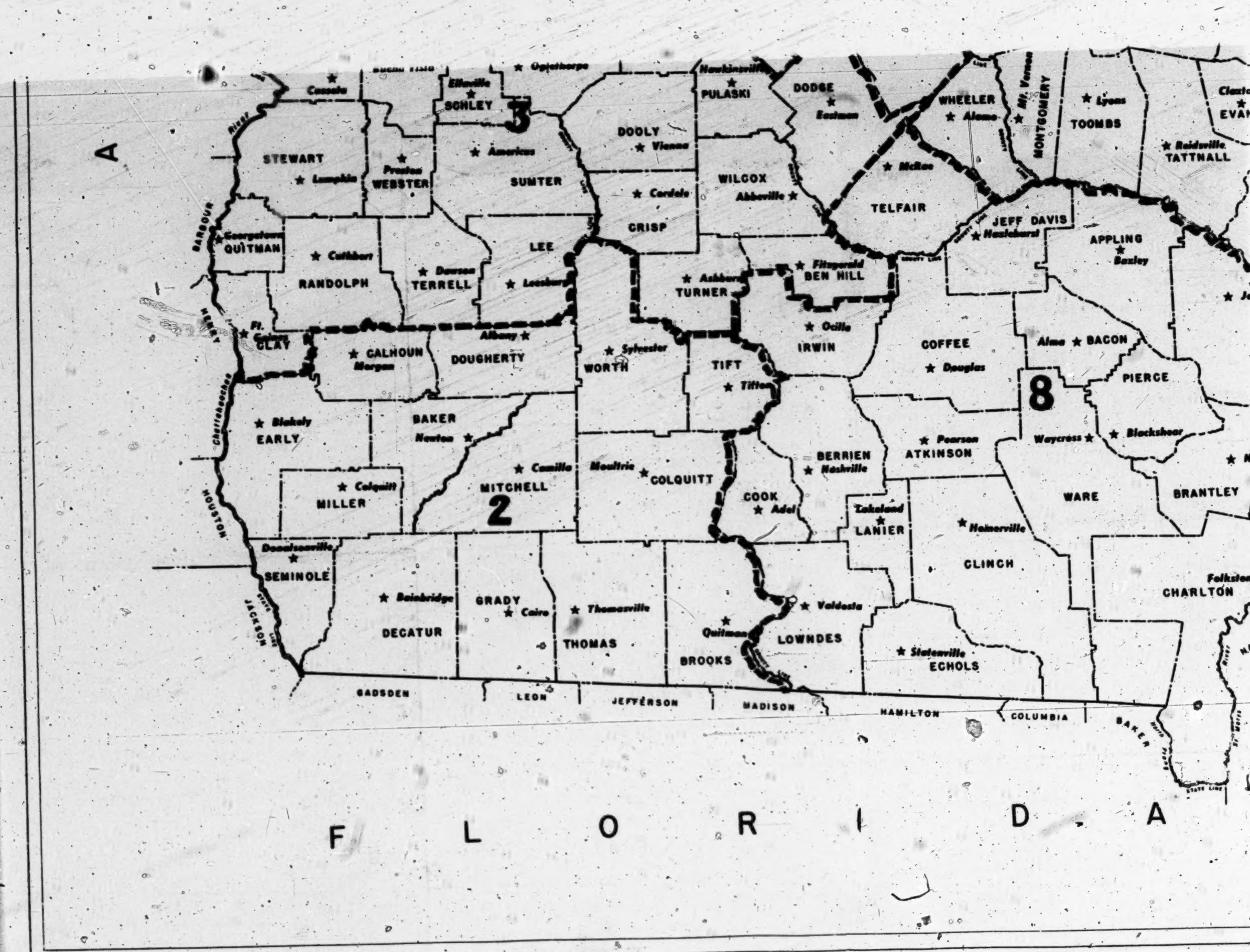
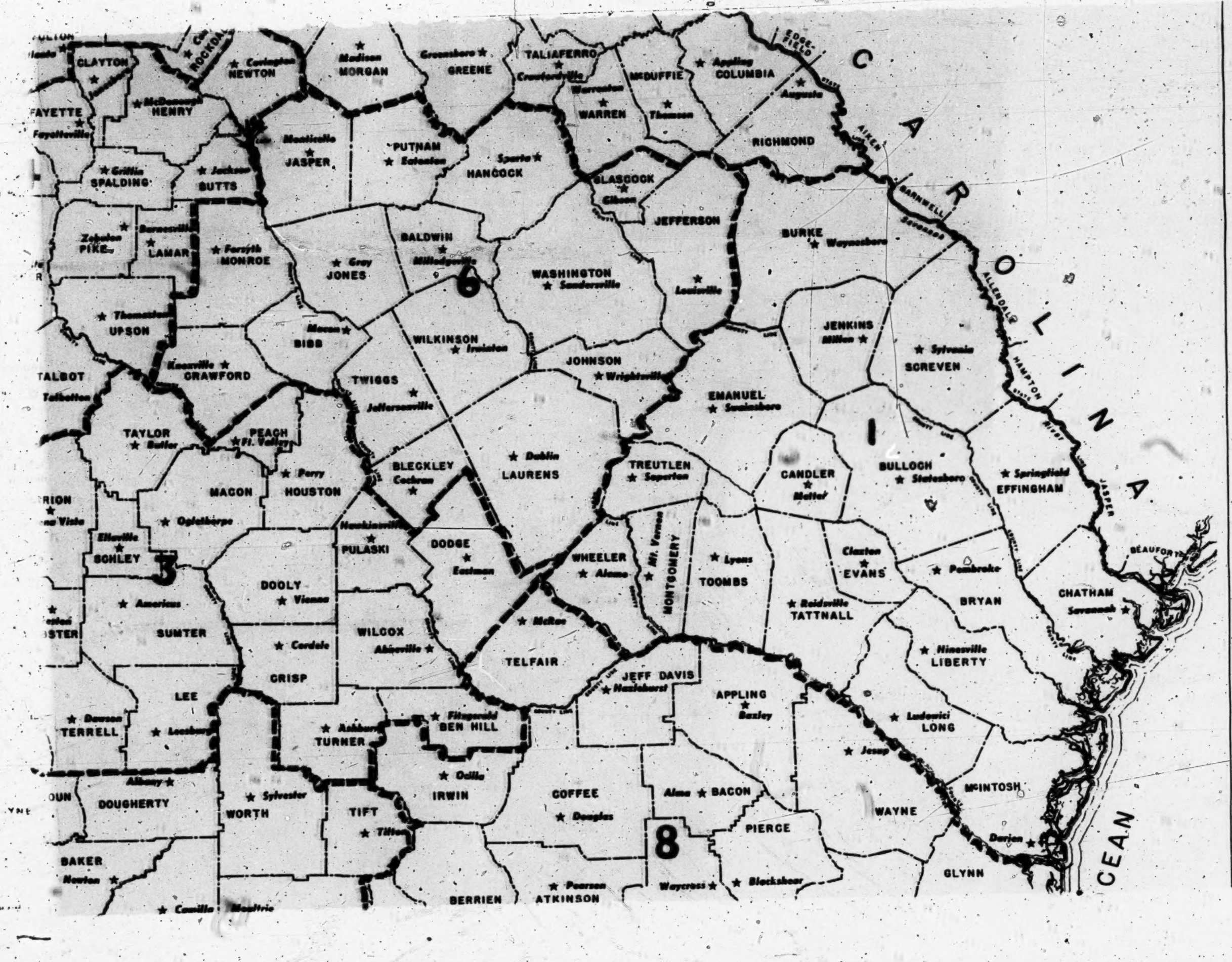
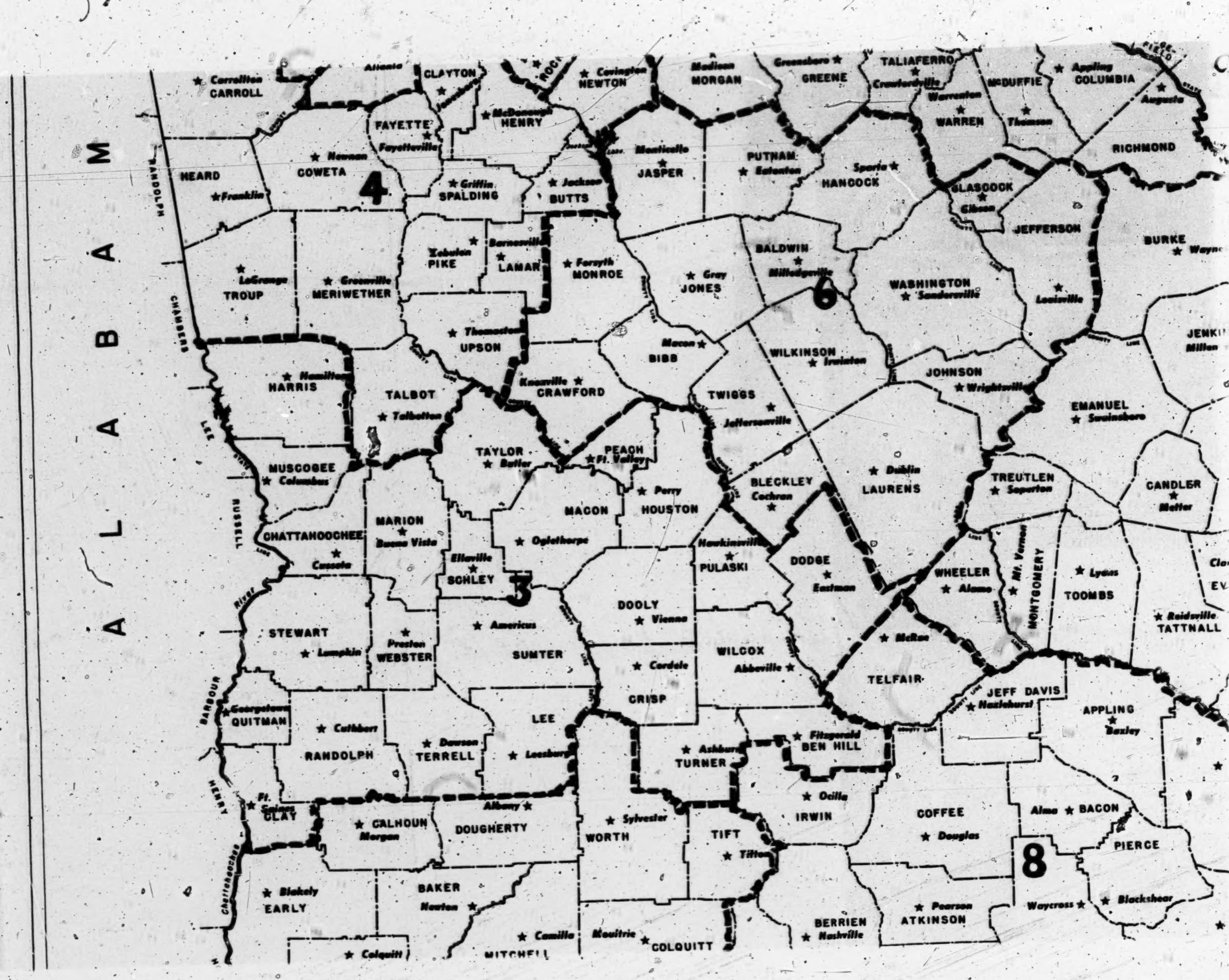
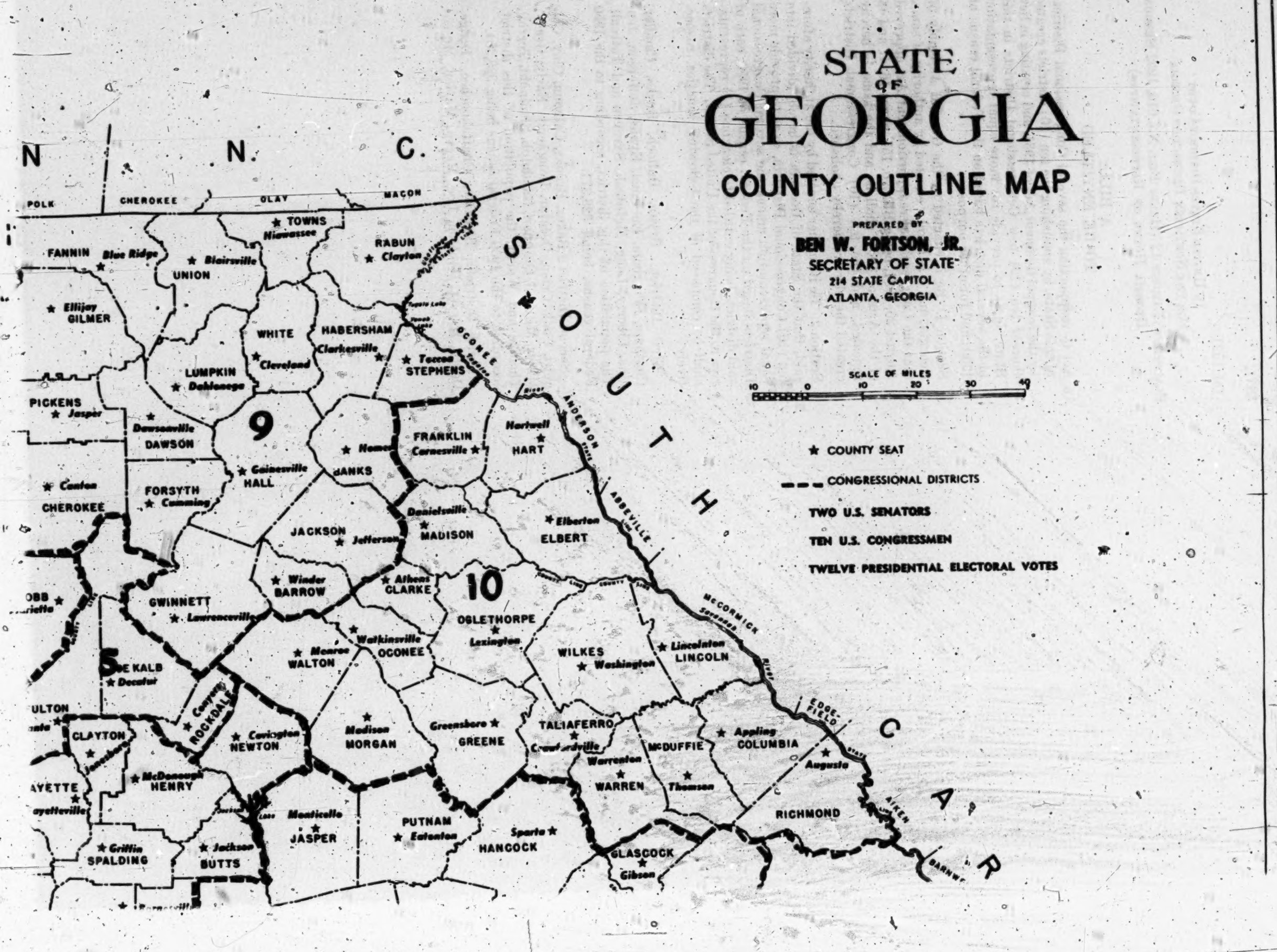
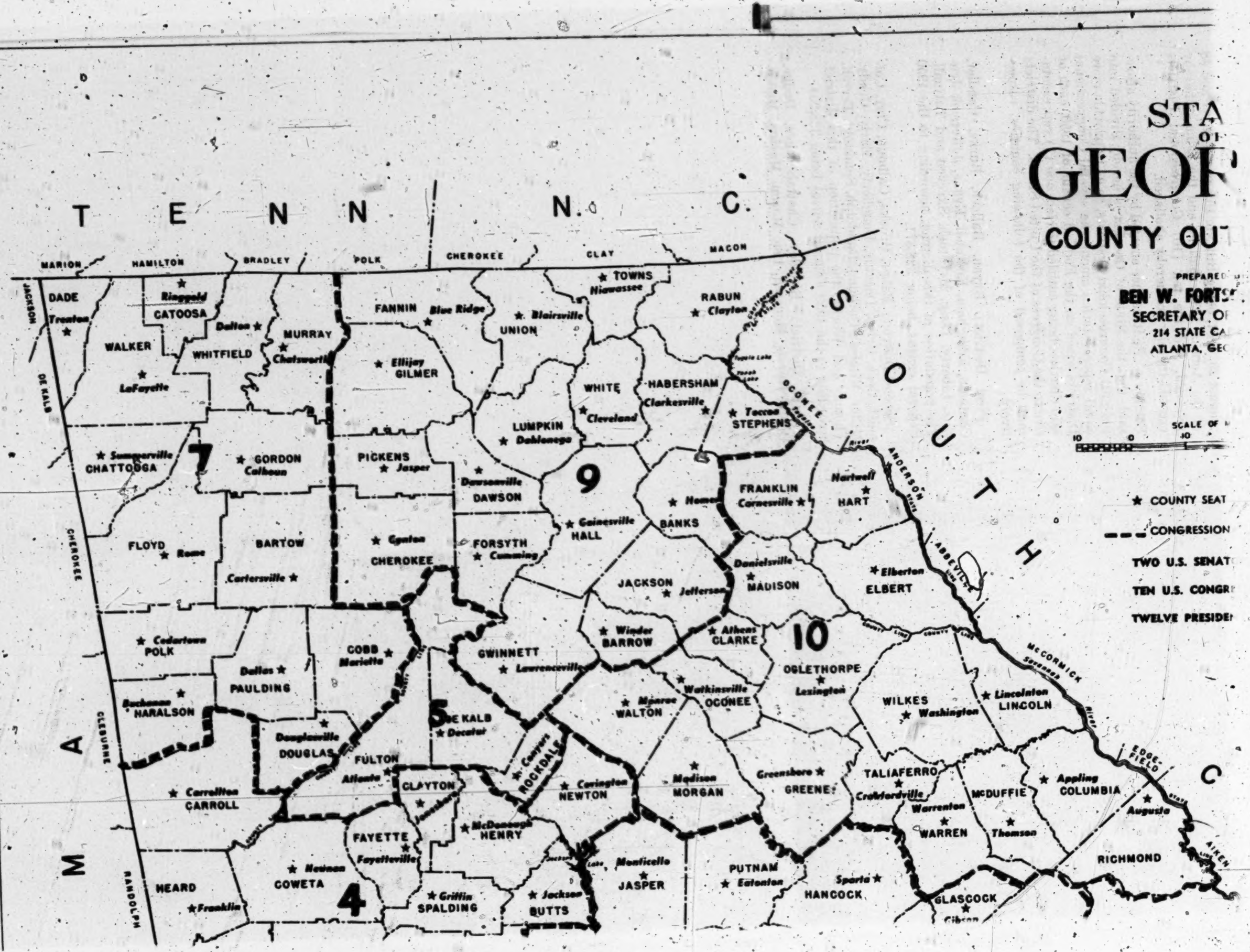
vs.

CARL E. SANDERS, etc., et al.

ORDER NOTING PROBABLE JURISDICTION—June 10, 1963

Appeal from the United States District Court for the Northern District of Georgia.

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.



[fol. 152]

IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

PLAINTIFFS' EXHIBIT 12 (HOUSE BILL NO. 610, 1952 SESSION,
GEORGIA HOUSE OF REPRESENTATIVES)

A BILL
TO BE ENTITLED

An Act to reapportion the several Congressional Districts of this State, by abolishing the ten (10) districts created by the reapportionment Act of 1931, and creating in lieu thereof ten (10) new Congressional Districts in this State, so as to provide for more equal representation in the several districts based on the Federal census of 1950; and for other purposes:

Section 1. Be it enacted by the General Assembly of Georgia, and it is hereby enacted by authority of same, that the Congressional reapportionment Act approved August 25, 1931, being Bill No. 157, pages 46, 47 and 48 of the Acts of 1931, shall be and the same is hereby repealed, and the ten (10) Congressional Districts created thereby are hereby abolished.

Section 2. Be it further enacted by the authority aforesaid, that the State of Georgia is hereby divided into ten (10) Congressional Districts, so as to provide more equal representation among the several Congressional Districts based on the Federal census of 1950, each of said districts being entitled to elect one (1) representative to the Congress of the United States. The districts shall be composed of the following counties, respectively:

First District: Bryan, Bulloch, Burke, Candler, Chatham, Effingham, Emanuel, Evans, Jefferson, Jenkins, Liberty, Long, McIntosh, Screven and Tattnall. The population of this district, according to the 1950 Federal census, being 328,371.

Second District: Baker, Brooks, Calhoun, Clay, Colquitt, Cook, Crisp, Decatur, Dougherty, Early, Grady, Miller, Mitchell, Quitman, Randolph, Seminole, Terrell, Thomas and Worth; the population of this district, according to the 1950 Federal census being 328,254.

Third District: Bleckley, Chattahoochee, Dodge, Dooley, Harris, Houston, Lee, Macon, Marion, Musco-

gee, Peach, Pulaski, Schley, Stewart, Sumter, Talbot, Taylor, Telfair, Webster and Wilcox; the population of this district, according to the 1950 Federal census being 328,664.

Fourth District: Carroll, Clayton, Coweta, Douglas, Fayette, Haralson, Heard, Henry, Lamar, Meriwether, Paulding, Pike, Polk, Spalding, Troup and Upson; the population of this district, according to the 1950 Federal census, being 328,491.

Fifth District: Fulton; the population of this district, according to the 1950 Federal census, being 466,172.

[fol. 153] Sixth District: Baldwin, Bibb, Butts, Crawford, Glascock, Hancock, Jasper, Johnson, Jones, Laurens, Monroe, Newton, Putnam, Twiggs, Walton, Washington and Wilkinson; the population of this district, according to the 1950 Federal census, being 328,984.

Seventh District: Bartow, Catoosa, Chattooga, Cherokee, Cobb, Dade, Floyd, Gordon, Murray, Pickens, Walker and Whitfield; the population of this district, according to the 1950 Federal census, being 327,667.

Eighth District: Appling, Atkinson, Bacon, Ben Hill, Berrien, Brantley, Camden, Charlton, Clinch, Coffee, Echols, Glynn, Irwin, Jeff Davis, Lanier, Lowndes, Montgomery, Pierce, Tift, Toombs, Treutlen, Turner, Ware, Wayne and Wheeler; the population of this district, according to the 1950 Federal census, being 328,353.

Ninth District: Banks, Dawson, DeKalb, Fannin, Forsyth, Gilmer, Gwinnett, Habersham, Hall, Lumpkin, Rabun, Rockdale, Stephens, Towns, Union and White; the population of this district, according to the 1950 Federal census, being 328,504.

Tenth District: Barrow, Clark, Columbia, Elbert, Franklin, Greene, Hart, Jackson, Lincoln, McDuffie, Madison, Morgan, Oconee, Oglethorpe, Richmond, Taliaferro, Warren and Wilkes; the population of this district, according to the 1950 Federal census, being 331,334.

Section 3. Be it further enacted by the authority aforesaid, that all laws and parts of laws, in conflict herewith be and the same are hereby repealed.

[fol. 153a] H. B. No. 610

A BILL

To be entitled An Act to reapportion the several Congressional Districts of this State, by abolishing the ten (10) districts created by the reapportionment Act of 1931, and creating in lieu thereof ten (10) new Congressional Districts in this State, so as to provide for more equal representation in the several districts based on the Federal census of 1950; and for other purposes.

IN HOUSE

Read 1st Time Feb 15 1951

Read 2nd Time.....19.....

Read 3rd Time.....19.....

and.....

Ayes.....Nays.....

Clerk of House.

By Mr. Alverson of Fulton

Referred to Committee on.....

Leg. & Cong. Reapp.

[Handwritten across face—Do Not Pass]

[fol. 154]

IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

PLAINTIFFS' EXHIBIT 13

MEMORANDUM SUBMITTED BY THE DeKALB COUNTY LEGISLATIVE DELEGATION TO THE COMMISSION APPOINTED PURSUANT TO HOUSE RESOLUTION 296, TO STUDY THE ADVISABILITY OF REAPPORTIONING REPRESENTATION IN THE CONGRESS AND IN THE GENERAL ASSEMBLY AND TO REPORT TO THE 1962 GENERAL ASSEMBLY.

In our opinion this commission has the most important assignment of all the interim committees created by the 1961 session of the General Assembly.

If its efforts result in the just reapportionment of Congressional Districts and the General Assembly, we are convinced that the cause of representative government under law will be strengthened; the state as a political subdivision will be revitalized; and respect for our political processes will be greatly increased.

On the other hand, if this commission fails to develop a practical method of achieving just reapportionment and nothing is done to protect our tradition of representative government, then the cause of representative government under law will be weakened; the state, as a political subdivision will continue to decline in prestige and effectiveness; and the people of Georgia will have less and less confidence in the processes of state government.

We regret that the Senate defeated House Resolution 145 which would have created a joint House-Senate Committee with public members appointed by the Governor. The Senate defeated that resolution by a vote of 30-19. An analysis of that vote shows that the 19 Senators who voted for the resolution represented more than 300,000 more Georgians than did the 30 who voted against making the study. Although the vote illustrates the problem the committee is dealing with, it also points up the difficulty of getting any plan which this Commission may ultimately propose enacted into law. No plan can be adopted without the concurrence of a majority of the members of both the House and the Senate.

[f6l. 155] We particularly appreciate the fact that the overwhelming majority in the House agreed to the creation of this study commission. Without such a study by experienced legislators it is altogether unlikely that any bill or plan could gain acceptance in a forty day session. With such a study, after public hearings, consideration of the population figures revealed by the 1960 census, and regard for the constitutional and statutory problems involved, we believe that it is an attainable goal for this committee to devise a plan whereby each congressional district would contain approximately one-tenth of the State's population, and the General Assembly could be constituted so that one house would be reasonably apportioned on the basis of population and the other would take into account geographical considerations.

Our delegation is aware of the difficulties involved and that there are those who say that those legislators who now hold a disproportionate amount of power will never agree to relinquish power so as to permit a just reapportionment.

We reject this line of thinking. Together we have nearly forty years of experience in serving with men throughout Georgia and we are convinced that the legislature can and will correct this increasingly unfair situation when they are confronted with a specific, practical way in which to do so. We believe a great majority of our members understand that it is *far* better for us to correct an obviously unfair situation than it is for us through default to let the Federal Courts take charge.

This, it seems to us, is the main task of the commission: To find the most practical manner of redistricting the state for congressional purposes, and to devise a structure for the General Assembly which would be feasible and which would accomplish the desired result.

[fol. 156] During the 1961 session the following memorandum was circulated among members of the legislature concerned with the problem of reapportionment and it contains one approach which we believe this commission should consider. This is the plan whereby the Senate would become the body which would be most nearly representative on the basis of population and the House would remain as it is, or, be reduced in size to one representative from each county, making a total of 159. Because the thoughts contained in the memorandum have been favorably received it is set forth in its entirety:

[fol. 157]

MEMORANDUM CONCERNING THE URGENT NEED FOR JUST REAPPORTIONMENT OF THE GENERAL ASSEMBLY OF GEORGIA (1961 Session)

The citizens of Georgia have an important stake in maintaining the tradition of representative government. For most of the people of our state this tradition is weakening, and, in some instances, almost gone.

The most conspicuous evidence that this tradition is taking a beating is in the apportionment of the General Assembly. This is resulting from spectacular and continu-

ing population shifts and from the failure of the executive department to assert leadership to protect this tradition, and from the refusal of previous legislatures to study the problem.

The 1961-62 General Assembly has a clear responsibility and it has a golden opportunity to take remedial action.

The tradition of free government in America is not that of a pure democracy but is that of a democratic republic where laws are made through *representative* legislatures. The Congress of the United States and forty-nine of the fifty state legislatures are bi-cameral and they are designed so that one house is reasonably apportioned on the basis of population and the other house takes into account geographical factors. Both factors deserve consideration.

Although the problem is not unique to Georgia, it has become acute because *neither* house of the Georgia legislature is reasonably apportioned on the basis of population.

1960 census figures show startling inequities in the apportionment of the state House of Representatives.

The provision for reapportionment contained in the 1945 State Constitution is virtually meaningless because compliance with this provision does not alleviate the inequities.

[fol. 158] Notwithstanding this fact, there are several ways the 1961-62 legislature could act decisively to immediately restore representative government.

The problem is this: What would be the simplest, most practical, understandable and desirable action to take?

It is a paradox that the Georgia constitution, although stating the high principles on which our government was founded, was drawn in such a way that it does not guarantee the realization of those principles. In fact, because of constitutional limitations contained in the constitution, it is impossible for the legislature to apportion the state House of Representatives on a reasonably representative basis.

The Preamble of the Constitution of the State of Georgia says:

"To perpetuate the principles of free government, insure justice to all, preserve peace, promote the interest and happiness of the citizen, and transmit to posterity the enjoyment of liberty, we, the people of Georgia,

relying upon the protection and guidance of Almighty God, do ordain and establish this Constitution."

And the first Article of the Bill of Rights says:

2-101. *Origin and foundation of government.* All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and, at all times, amenable to them.

And the following Articles of the Bill of Rights contained in our State Constitution are fundamental propositions on which our government was founded:

2-102. *Protection the duty of government.* Protection to person and property is the paramount duty of government, and shall be impartial and complete.

2-103. *Life, liberty, and property.* No person shall be deprived of life, liberty, or property, except by due process of law.

2-123. *Legislative, judicial, and executive powers, separate.* The legislative, judicial and executive powers shall forever remain separate and distinct, and no person discharging the duties of one, shall, at the same time exercise the functions of either of the others, except as herein provided.

[fol. 159] 2-125. *Citizens, protection of.* All citizens of the United States, resident in this State; are hereby declared citizens of this State, and it shall be the duty of the General Assembly to enact such laws as will protect them in the full enjoyment of the rights, privileges and immunities due to such citizenship.

2-501. *State rights.* The people of this State have the inherent, sole and exclusive right of regulating their internal government, and the police thereof, and of altering and abolishing their Constitution whenever it may be necessary to their safety and happiness.

The legislative department is established in the 1945 Constitution in Article III which provides:

- 2-1301. *Power vested in general assembly.* The legislative power of the State shall be vested in a General Assembly which shall consist of a Senate and House of Representatives.
- 2-1401. *Number of Senators and senatorial districts; change of districts.* The Senate shall consist of not more than fifty-four members and there shall be not more than fifty-four Senatorial Districts with one Senator from each District as now constituted, or as hereafter created. The various Senatorial Districts shall be comprised of the Counties as now provided, and the General Assembly shall have authority to create, re-arrange and change these Districts within the limitations herein stated.
- 2-1501. *Number of representatives.* The House of Representatives shall consist of representatives apportioned among the several counties of the State as follows: To the eight counties having the largest population, three representatives each; to the thirty counties having the next largest population, two representatives each; and to the remaining counties, one representative each.
- 2-1502. *APPORTIONMENT changed, how.* The above apportionment shall be changed by the General Assembly at its first session after each census taken by the United States Government in accordance with the provisions of Paragraph I of Section III of this Article.
- 2-1920. *Powers of the General Assembly.* The General Assembly shall have the power to make all laws consistent with this Constitution, and not repugnant to the Constitution of the United States, which they shall deem necessary and proper for the welfare of the State.

Article XIII of the State Constitution provides in Section 2-8101 that an Amendment must be agreed to by two-

thirds of the membership of the House and Senate, and by a majority of the electors qualified to vote for members of the General Assembly voting in a general election before it shall become a part of the Constitution of Georgia. [fol. 160] Referring back to the Bill of Rights of the State Constitution, Section 2-501, which defines States Rights, it says:

"The people of this State have the inherent, sole and exclusive right of regulating their internal government . . . and of altering . . . their Constitution whenever it may be necessary to their safety and happiness."

It is self-evident that our government must be representative if it is to be responsive and do those things which are necessary to our "safety and happiness". Yet, as a practical matter, our people are obstructed in keeping the House of Representatives reasonably apportioned on the basis of population because of the difficulty of initiating a corrective constitutional amendment. The *only* way such an amendment could be submitted to the people of Georgia would be *after* the approval of such a proposal by two-thirds of the members of the House of Representatives as now constituted. This would mean that a heavy majority of the membership of the House would have to agree to relinquish some political power, and, historically, this has been one of the most difficult political adjustments to accomplish.

The 1960 census reveals that more than half of the people of Georgia now reside in the 15 most populous counties, yet their representatives have less than 19 percent of the votes in the House. Less than half of the people of Georgia reside in the 144 smallest counties, yet their representatives have more than 81 percent of the votes in that body.

More than 90 counties are losing population steadily in recent years and more than 60 counties are gaining population steadily. The following figures tell the story:

	% of votes in House	% of 1960 population	% of 1950 population
8 counties	12	41	38
30 counties	29	27	24
121 counties	59	32	38

[fol. 161] The "reapportionment" provided in the Constitution whereby Dougherty and Floyd County exchange places as 2 and 3 representative counties, and 3 other counties change places, is virtually meaningless in terms of correcting the growing inequities and protecting the tradition of representative government.

One solution would be to scrap the 3-2-1 arrangement in the present Constitution and provide that the House of Representatives should have not more than 160 (or some such number) members to be elected from districts reasonably apportioned after each census on the basis of population. There is nothing sanctified about the 3-2-1 formula. Dr. Albert Saye, the distinguished political scientist and historian at the University of Georgia, says on page 95 of his *Constitutional History of Georgia*: "This type (3-2-1) was proposed by a Constitutional convention held at Milledgeville in 1833 but was rejected when submitted to popular referendum. It was written into the Carpetbag Constitution of 1868; it was continued in the Constitution of 1877 and 1945."

Yet there are practical difficulties, in addition to those mentioned, in changing the formula in the House of Representatives. The House is the sixth largest legislative body in the 50 states. It is unwieldy now. No county would want to give up its representative and there would be nowhere to place chairs for additional representatives, should they be given to the larger counties. Furthermore, the tradition of legislative courtesy is so deep-rooted it would be difficult for large delegations from the most populous counties to get unanimous agreement on local legislation.

By the process of elimination, and because of the practicalities of the situation, the Senate then becomes the forum which could most easily be apportioned on the basis of population. The Constitution says only that there shall be not more than 54 senatorial districts. It would be relatively easy to create by act of the 1961 or 1962 legislature [fol. 162] 54 senatorial districts having within 15% of the mean population you arrive at by dividing 54 into the 1960 state population of 3,943,116. This figure would be 73,076.

Such an Act could be fortified by a constitutional amendment that would require such an apportionment after each census, and would grant judicial relief if the legislature failed to act. Such checks and balances against legislative inaction have been adopted by other states.

By taking this route there would be many advantages. It could be speedily done by the present General Assembly. It could be protected by a simple amendment to the Constitution. It would eliminate the rotation system in the Senate which has sapped the strength of that body and forced the retirement of many able and experienced men. It would not take away representation from any county, but would require every senator to make a race throughout his district at every election. It would not involve revision of the county unit system.

It would make the legislature more representative of the people of Georgia and, therefore, more responsive to their will.

It would make the legislature a stronger check on the executive.

And it would restore life and meaning to Article I of the Bill of Rights of the Georgia Constitution, which says: "All government, *of right*, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and, at all times, amenable to them."

[fol. 163] Since the 1961 session, and after much discussion of the proposal outlined in the foregoing memorandum, the following conclusions seem justified:

1. Neither house of the General Assembly should be increased in size.
2. As a practical matter it would be easier to make the Senate representative on the basis of population than it would be to make the House the popular body.
3. No county should be expected to give up representation in the lower house.

4. Reduction of house membership from 205 to 159 would make the House a more efficient and deliberative body.
 5. The rotation system weakens the effectiveness and quality of the Senate, forces the retirement of able legislators and should be done away with.
 6. If Senators could succeed themselves they would no longer be automatic lame-ducks, there would be more prestige attached to the office, the Senate would then become the more experienced body and could "back-stop" the House.
 7. The objection has been made that Senatorial races would become more difficult and expensive, but this criticism has been off-set by the argument that a strong incumbent would often get by without opposition.
 8. Since the 1961 session a study of cases now pending in state and federal courts reveals an increasing tendency to accept jurisdiction of complaints about unfair apportionment and that failure of state legislatures to remove inequities accelerates the likelihood that there will be a judicial invasion of this field which historically belongs to the legislatures.
- [fol: 164] 9. If the legislature fails to act, the citizens of Georgia who feel they are being damaged by this inaction will seek redress and relief in state and federal courts and may get judicial relief.
10. The members of the General Assembly should be able to devise more acceptable and practical apportionment than could a judge or judges unacquainted with many practical political factors.

We call to the attention of the Commission the final report of the Committee on Legislative Processes and Procedures of the National Legislative Conference which has just been released. It states:

"One of the most basic problems of all, inescapable in a representative form of government, is the matter of

legislative apportionment. The Committee refrains from offering specific suggestions on this matter, but is forced to the conclusion that the continued flouting of constitutional apportionment requirements will greatly prejudice the confidence of the people in the processes of state government. At the same time, it would appear that the reapportionment provisions in many state constitutions are unrelated to present political realities. The Committee earnestly suggests that each state which does not in practice reapportion at the intervals in the manner constitutionally prescribed should make a thorough study of the problem and possible methods for solving it, including the use of non-legislative reapportionment bodies such as those currently employed in a dozen states."

In our judgment, the problem of legislative apportionment is the most formidable problem confronting this committee. It is the most basic. We believe that, if nothing else is accomplished, just legislative reapportionment should be accomplished as a result of this commission's work and subsequent action by the 1962 session of the General Assembly. If this is done then congressional redistricting and elimination of the inequities in the county unit system will be accomplished in succeeding sessions of the legislature as surely as day follows night.

[fol. 165]

CONGRESSIONAL DISTRICTS

Congressional redistricting should be an attainable goal at the 1962 session. The problem is much simpler of solution than legislative reapportionment.

Congressional seats are apportioned to the several states on the basis of their population. Georgia has ten of the 435 members in the U. S. House of Representatives. The districts have not been adjusted to take account of population shifts since the 1930 census so that the population of each district as shown by the 1960 census is now as follows:

1. 379,933	6. 330,235
2. 301,123	7. 450,740
3. 422,198	8. 291,185
4. 323,489	9. 272,154
5. 823,680	10. 348,379

This striking departure from districts reasonably the same in population has come about as a result of the rapid shifts in population and the failure of the state legislature to make adjustments after the 1940 and 1950 census.

It would be possible to revise these districts in such a way that only two incumbent Congressmen would be affected. We do not contend that each district should have the exact number as any other district. If this were the case each district would have 394,311 people in it. We do contend that the districts should be drawn in such a way that no district should have a population more than ten per cent above or below the average.

There are many good reasons why Congressional Districts should be kept approximately the same size in terms of population.

[fol. 166] The United States House of Representatives is supposed to be the popular branch of Congress and most closely reflect the will of the people of the United States. Congressmen, for this reason must stand for office every two years.

The workload of our congressional delegation should be evenly divided. If one Congressman has to represent three times as many people as another Congressman (and this is the case under the present set-up) then he has three times as difficult a job in running for office, in answering his mail, in keeping his constituents acquainted with what he is doing, and it is just so much more difficult for his constituents to reach him, and for him to cover his district.

We represent a county of 256,000 people and it is difficult to stay in touch with people throughout our county. Approximately 400,000 constituents is a sizeable number and no Congressman should be expected to effectively represent many more than this number. Keeping government

close to the people demands that the burden of Congressional representation be shared on a fair basis.

Georgia has fallen behind in this matter of fair Congressional Districting to the extent that Florida, Alabama, Tennessee, North Carolina, South Carolina have much more equitable districting than Georgia and those states are moving to bring their districts in line with 1960 realities.

Jefferson County, Alabama, has its own Congressman, as does Shelby County, Tennessee. There is no reason why Fulton County should not have its own Congressman. If the Fifth District were divided into two districts, each district would still have more than the average if districts were exactly apportioned.

Many people have over-looked the fact that inequitable districting of the state for congressional purposes has [fol. 167] weakened the ideal of representative state government. This is due to the fact that many of our most important boards and commissions are affected by congressional apportionment. Among them are boards supervising the expenditure of hundreds of millions of dollars annually: The State Highway Board, the State Board of Education, the State Board of Regents, the Board of Health, the State Welfare Advisory Board. These boards are tremendously influential in the expenditure of more than ninety percent of all state revenues.

In addition, the State Game and Fish Commission, the Advisory Committee to the Director of the Department of Commerce, and many others, draw their membership from Congressional Districts.

It is apparent that Congressional Districting has an impact throughout virtually all functions of state government and, to the extent that we permit these districts to be unrepresentative, we permit our state government as a whole to be unrepresentative in its decisions.

CONCLUSION

We have intentionally limited this memorandum to legislative and congressional reapportionment, although it is clear that this committee will study the county unit system since the identical inequities present in the apportion-

ment of the House are present in the allocation of county units. But the county unit system is a method of determining the outcome of party primaries. Although it is related, it is a separate problem.

Our views concerning the county unit system will be presented at another time in a separate memorandum.

We respectfully request that this commission devise a specific plan whereby Congressional Districts are reasonably apportioned on the basis of population and whereby one House of the legislature is made reasonably representative on the basis of population. Both of these could be accomplished at the 1962 session by statute if the commission accepts our recommendation to revamp the Senate.

This memorandum is respectfully submitted by the undersigned who represent the 256,000 Georgians who reside in DeKalb County, now the second most populous county in Georgia.

W. Hugh McWhorter
Senator, 34th District

Guy W. Rutland, Jr.
Pierre Howard
James A. Mackay
DeKalb County Representatives

[fol. 169]

PLAINTIFFS' EXHIBIT 14

IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

JAMES A. MACKAY
DeKalb County
Masonic Temple Bldg.
Decatur, Georgia

MEMBER COMMITTEES:
Special Judiciary
University System of Georgia

Secretary
Banks & Banking

Vice-Chairman
Sub-Committee
(Banks & Banking)
Industrial Loans

(Emblem)

HOUSE OF REPRESENTATIVES
HOUSE CHAMBER
ATLANTA

October 10, 1961

Dear Fellow Georgian:

Your help is needed. It is urgently needed if we are to restore fair representative government under law in our State government!

This priceless political institution is slipping away from us day by day. While apathy and inaction subvert it here at home, it is under ruthless attack around the world by men who would govern by bullets instead of ballots—men who have contempt and scorn for the ideal of government by the consent of the governed.

The colony of Georgia was founded by men who cherished this ideal. Georgians of almost every generation have shed blood and have been willing to die to defend and uphold their right to representative government.

Today our nation's resources—men and material—are deployed around the world for the same purpose. And wherever Americans keep watch on land, sea or in the air you will find young Georgians doing their part.

We owe them more than gratitude. We have a duty here at home to restore and safeguard the ideal for which they risk their lives at lonely outposts. Yet the truth is that we have done little or nothing to stop the steady erosion whereby our government has become less and less representative and therefore less responsive to the will of our people.

We have not taken the trouble to assess what is happening and why. We have not tried hard enough to see what can be done to recover for ourselves, and to secure for future generations, representative government under law.

It will profit little to search for a scapegoat—to place blame on an individual or a group of individuals. What we must do is search for positive, practical political solutions and then press for action until we have made our state government truly representative of the people of Georgia.

[fol. 170] A good place to begin the search for our trouble is in the Constitution of Georgia. Article I of the Bill of Rights says: "All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and at all times, amenable to them."

Notwithstanding this fine statement of the ideal, the Constitution does not *require* reapportionment of the legislature after each census to take in to account population changes and keep it representative. Men must *voluntarily* make these adjustments and relinquish power. There is no check and balance against legislative inaction.

The Constitution, instead of providing for a substantially representative arrangement in the lower House, still has an arbitrary assignment of 3 representatives from the 8 most populous counties, 2 from the 30 next most populous

counties and 1 from the 121 smallest counties. This 3-2-1 scheme has remained in every constitution since it was put there by the Carpetbag legislature of 1868.

Yet to change this scheme requires a constitutional amendment approved by two-thirds of the membership of both House and Senate *before* the people could vote on such a proposal. The same would be necessary if a check and balance against legislative inaction were written in to the Constitution.

Since the legislature alone can initiate constitutional amendments, revise senatorial districts, keep congressional districts reasonably apportioned, and write election laws that are fair in their application to citizens throughout Georgia, the search for the cause of our trouble centers in the present structure of the General Assembly.

A study of the 1940, 1950 and 1960 census reveals that both houses of the legislature are becoming less and less representative of the people of our state as a whole. Senatorial districts have populations ranging from 13,050 to 556,326 and in the house the ratio of population to representative ranges from 1 for 1876 people in Echols County to 3 for 556,326 people in Fulton.

Because of the rotation system in the Senate it is fair to say that two-thirds of our people have no representation in the Senate at all times. Capable senators cannot succeed themselves and the result is a continuity of inexperience.

[fol. 171] Perhaps even more striking is the fact that the representatives of less than 24% of Georgia's 3,943,116 people command a majority of legislative votes and can therefore pass any law no matter how discriminatory and defeat any bill no matter how praiseworthy.

More than half of the people of Georgia now live in the 16 largest counties yet their representatives have less than one-fifth of the votes that make the laws under which they must live. And the political position of all our citizens is steadily declining, because government originates less and less with the people, is founded less and less on their will.

Primary election laws reflect these same inequities, penalize citizens in the growing counties, and make state-house officers less and less amenable to the people and cause these officers to be more and more indifferent to the good of the whole people of Georgia. The Neil primary act, for example, has not been revised in over forty-four years. The inequities of the county unit system make a mockery of democratic processes and respect for state government is undermined.

Another symptom of the declining vitality of the legislature is its failure to keep our congressional districts reasonably equal in population. Not for thirty years have these districts been adjusted to keep pace with population changes. Our fifth district now has more than 823,000 citizens—more than twice the national average and three times the size of our least populous Congressional District.

What can be done?

First, and foremost, our people must take time to examine the Constitution and its demonstrated shortcomings. They need to rediscover the importance of the state legislature in our system of state government. They must work for its revitalization by making it truly representative.

We must counteract the cynical view that the members of the General Assembly will not recognize their responsibility to reapportion on a just basis—even if it means the relinquishment of power unjustly held. My experience with members of the General Assembly causes me to have faith that, given positive executive and legislative leadership, they will take such action as may be necessary to install constitutional safeguards and enact statutes which will restore fair representative government under law.

[fol. 172] Second, if our efforts fail in seeking corrective legislative action, then we must turn to our courts.

This is not a fight just for the people in the growing counties. It is a fight for all the people of Georgia. Victory will mean that *all* our people will share an interest in their state government. It will mean that every man and woman

can seek office on a fair competitive basis and in turn it will mean that our people will draw on the talents of all our people to find the ablest leadership available to grapple with the old and new problems of state government.

Those of us who recognize this duty to restore fair representative government under law here in Georgia will, when we have won our goal, give new meaning to the grand conception that all government is founded on the will of the people and instituted solely for the good of the whole.

Georgia's chance for progress is sorely handicapped. Until fair representative government is restored there is little hope for the kind of progress of which we are capable in building a better Georgia. Let us remove this handicap!

You, individually, are part of public opinion. Your voice, along with others, can become so powerful, that it will sweep away the obstacles which today seem so formidable.

Make your views known to the men who would lead Georgia in the years that lie ahead!

Sincerely yours,

/s/ JAMES A. MACKAY

James A. Mackay

DEPENDANTS' EXHIBIT 1
IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
EXHIBIT C

CONGRESSIONAL DISTRICTS RANKED ACCORDING TO POPULATION

DISTRICTS EFFECTIVE JANUARY 1963 POPULATIONS, 1960--

CONGRESSIONAL DISTRICT	1960 POPULATIONS	CARD NO.
1 TEXAS	5TH 951527	1
2 GEORGIA	5TH 823680	2
3 MICHIGAN	16TH 802994	3
4 OHIO	3RD 726156	4
5 MARYLAND	5TH 711045	5
6 INDIANA	11TH 697567	6
7 MICHIGAN	18TH 690259	7
8 CONNECTICUT	1ST 689555	8
9 TEXAS	20TH 687151	9
10 OHIO	12TH 682962	10
11 TEXAS	22ND 674965	11
12 MICHIGAN	7TH 664556	12
13 ARIZONA	1ST 663510	13
14 FLORIDA	6TH 660345	14
15 COLORADO	21ST 653954	15
16 CONNECTICUT	4TH 653589	16
17 TENNESSEE	5TH 653310	17

[fol. 173]

CONGRESSIONAL

1960

CARD

DISTRICT

POPULATIONS

NO.

1 TEXAS	5TH	951527
2 GEORGIA	5TH	823680
3 MICHIGAN	16TH	802994
4 OHIO	3RD	726156
5 MARYLAND	5TH	711045
6 INDIANA	11TH	697567
7 MICHIGAN	18TH	690259
8 CONNECTICUT	1ST	689555
9 TEXAS	20TH	687151
10 OHIO	12TH	682962
11 TEXAS	22ND	674965
12 MICHIGAN	7TH	664556
13 ARIZONA	1ST	663510
14 FLORIDA	6TH	660345
15 COLORADO	2ND	653954
16 CONNECTICUT	4TH	653589
17 TENNESSEE	9TH	627019
18 MICHIGAN	6TH	623842
19 MARYLAND	2ND	621935
20 KENTUCKY	3RD	610947
21 MARYLAND	6TH	608666
22 MISSISSIPPI	2ND	608441

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23 CALIFORNIA	28TH	591822
24 NEW JERSEY	1ST	585586
25 OHIO	14TH	578684
26 ARKANSAS	4TH	575385
27 TEXAS	16TH	573438
28 UTAH	2ND	572654
29 TEXAS	8TH	568193
30 ILLINOIS	10TH	557221
31 NEW JERSEY	7TH	555555
32 PENNSYLVANIA	7TH	553154
33 OKLAHOMA	5TH	552863
34 PENNSYLVANIA	6TH	552579
35 VIRGINIA	10TH	539618
36 KANSAS	1ST	539592
37 TEXAS	14TH	539262
38 TEXAS	12TH	538495
39 PENNSYLVANIA	8TH	536103
40 LOUISIANA	6TH	536029
41 CALIFORNIA	1ST	533807
42 S. CAROLINA	2ND	531555
43 NEBRASKA	1ST	530507
44 WISCONSIN	2ND	530316
45 OREGON	3RD	522813
46 OKLAHOMA	1ST	521542
47 WISCONSIN	5TH	520674
48 ARKANSAS	2ND	517860

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124 N. CAROLINA	7TH	448933
125 CALIFORNIA	35TH	447333
126 KANSAS	2ND	446621
127 MINNESOTA	3RD	445898
128 ILLINOIS	20TH	445443
129 NEW YORK	19TH	445175
130 CALIFORNIA	11TH	444387
131 S. CAROLINA	4TH	444230
132 MASSACHUSETTS	4TH	444069
133 ILLINOIS	23RD	443553
134 NEW JERSEY	3RD	442642
135 IOWA	2ND	442406
136 MASSACHUSETTS	3RD	441558
137 KANSAS	4TH	441409
138 MASSACHUSETTS	11TH	441180
139 ARIZONA	2ND	440415
140 PENNSYLVANIA	12TH	439745
141 FLORIDA	11TH	439578
142 NEW YORK	20TH	439456
143 CALIFORNIA	6TH	439144
144 ILLINOIS	11TH	439043
145 MINNESOTA	1ST	438835
146 NEW YORK	25TH	438409
147 NEW YORK	8TH	438192
148 MISSOURI	7TH	436933
149 NEW YORK	41ST	435880
150 NEW YORK	40TH	435684

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30 ILLINOIS	10TH	557221
31 NEW JERSEY	7TH	555555
32 PENNSYLVANIA	7TH	553154
33 OKLAHOMA	5TH	552863
34 PENNSYLVANIA	6TH	552579
35 VIRGINIA	10TH	539618
36 KANSAS	1ST	539592
37 TEXAS	14TH	539262
38 TEXAS	12TH	538495
39 PENNSYLVANIA	8TH	536103
40 LOUISIANA	6TH	536029
41 CALIFORNIA	1ST	533807
42 S. CAROLINA	2ND	531555
43 NEBRASKA	1ST	530507
44 WISCONSIN	2ND	530316
45 OREGON	3RD	522813
46 OKLAHOMA	1ST	521542
47 WISCONSIN	5TH	520674
48 ARKANSAS	2ND	517860
49 OREGON	1ST	517678
50 PENNSYLVANIA	13TH	516682
51 TEXAS	15TH	515716
52 WISCONSIN	4TH	515367
53 INDIANA	1ST	513269
54 MICHIGAN	17TH	512752

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55 OHIO 11TH 512022
56 ILLINOIS 4TH 511808
57 WASHINGTON 7TH 510512
58 CALIFORNIA 18TH 510341
59 MISSOURI 2ND 505854
60 MAINE 2ND 505465
61 ILLINOIS 14TH 505076
62 NEW JERSEY 6TH 504255
63 CALIFORNIA 33RD 503591
64 ILLINOIS 13TH 503022
65 CALIFORNIA 3RD 502778
66 FLORIDA 3RD 500000
67 LOUISIANA 2ND 499561
68 TEXAS 9TH 498775
69 SOUTH DAKOTA 1ST 497669
70 TENNESSEE 2ND 497121
71 CALIFORNIA 16TH 496859
72 VIRGINIA 2ND 494292
73 COLORADO 1ST 493687
74 OHIO 16TH 492631
75 N. CAROLINA 8TH 491461
76 NEW JERSEY 4TH 490891
77 PENNSYLVANIA 9TH 488967
78 OHIO 2ND 488368
79 ILLINOIS 24TH 487198
80 N. CAROLINA 6TH 487159

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61 ILLINOIS	14TH	505076
62 NEW JERSEY	6TH	504255
63 CALIFORNIA	33RD	503591
64 ILLINOIS	13TH	503022
65 CALIFORNIA	3RD	502778
66 FLORIDA	3RD	500000
67 LOUISIANA	2ND	499561
68 TEXAS	9TH	498775
69 SOUTH DAKOTA	1ST	497669
70 TENNESSEE	2ND	497121
71 CALIFORNIA	16TH	496859
72 VIRGINIA	2ND	494292
73 COLORADO	1ST	493687
74 OHIO	16TH	492631
75 N. CAROLINA	8TH	491461
76 NEW JERSEY	4TH	490891
77 PENNSYLVANIA	9TH	488967
78 OHIO	2ND	488368
79 ILLINOIS	24TH	487198
80 N. CAROLINA	6TH	487159
81 MICHIGAN	2ND	483343
82 FLORIDA	4TH	482968
83 MINNESOTA	5TH	482872
84 MISSOURI	3RD	481218
85 MASSACHUSETTS	9TH	478962
86 KENTUCKY	4TH	478783

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87 NEBRASKA	3RD	476128	087
88 MINNESOTA	4TH	474957	088
89 ILLINOIS	8TH	474503	089
90 INDIANA	3RD	472958	090
91 NEW YORK	12TH	469908	091
92 NEW YORK	14TH	465889	092
93 MISSOURI	1ST	465488	093
94 OHIO	20TH	465341	094
95 MAINE	1ST	463800	095
96 KENTUCKY	7TH	463275	096
97 CALIFORNIA	10TH	463260	097
98 OREGON	4TH	463032	098
99 MICHIGAN	14TH	462192	099
100 MICHIGAN	5TH	461906	100
101 CONNECTICUT	3RD	461229	101
102 N. CAROLINA	4TH	460795	102
103 TENNESSEE	1ST	460583	103
104 NEW YORK	30TH	460409	104
105 MISSISSIPPI	3RD	460100	105
106 CALIFORNIA	34TH	460087	106
107 RHODE ISLAND	2ND	459706	107
108 INDIANA	5TH	459473	108
109 NEW YORK	7TH	457124	109
110 OHIO	9TH	456931	110
111 MASSACHUSETTS	10TH	456308	111
112 PENNSYLVANIA	24TH	456157	112

93 MISSOURI	1ST	465488
94 OHIO	20TH	465341
95 MAINE	1ST	463800
96 KENTUCKY	7TH	463275
97 CALIFORNIA	10TH	463260
98 OREGON	4TH	463032
99 MICHIGAN	14TH	462192
100 MICHIGAN	5TH	461906
101 CONNECTICUT	3RD	461229
102 N. CAROLINA	4TH	460795
103 TENNESSEE	1ST	460583
104 NEW YORK	30TH	460409
105 MISSISSIPPI	3RD	460100
106 CALIFORNIA	34TH	460087
107 RHODE ISLAND	2ND	459706
108 INDIANA	5TH	459473
109 NEW YORK	7TH	457124
110 OHIO	9TH	456931
111 MASSACHUSETTS	10TH	456308
112 PENNSYLVANIA	24TH	456157
113 FLORIDA	2ND	455411
114 NEW YORK	13TH	454285
115 N. CAROLINA	5TH	454261
116 NEW YORK	29TH	453165
117 MASSACHUSETTS	6TH	452956
118 MISSOURI	8TH	452385

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119 NEW JERSEY	9TH	451126	119
120 GEORGIA	7TH	450740	120
121 MASSACHUSETTS	5TH	450716	121
122 MISSISSIPPI	5TH	449565	122
123 LOUISIANA	1ST	449491	123
124 N. CAROLINA	7TH	448933	124
125 CALIFORNIA	35TH	447333	125
126 KANSAS	2ND	446621	126
127 MINNESOTA	3RD	445898	127
128 ILLINOIS	20TH	445443	128
129 NEW YORK	19TH	445175	129
130 CALIFORNIA	11TH	444387	130
131 S. CAROLINA	4TH	444230	131
132 MASSACHUSETTS	4TH	444069	132
133 ILLINOIS	23RD	443553	133
134 NEW JERSEY	3RD	442642	134
135 IOWA	2ND	442406	135
136 MASSACHUSETTS	3RD	441558	136
137 KANSAS	4TH	441409	137
138 MASSACHUSETTS	11TH	441180	138
139 ARIZONA	2ND	440415	139
140 PENNSYLVANIA	12TH	439745	140
141 FLORIDA	11TH	439578	141
142 NEW YORK	20TH	439456	142
143 CALIFORNIA	6TH	439144	143
144 ILLINOIS	11TH	439043	144
145 MINNESOTA	1ST	438835	145

[fol. 177]

221 RHODE ISLAND	1ST	399702
222 TENNESSEE	5TH	399743
223 WASHINGTON	6TH	399362
224 WASHINGTON	5TH	399093
225 CALIFORNIA	37TH	398597
226 NEW YORK	1ST	398254
227 ILLINOIS	12TH	398192
228 MICHIGAN	8TH	398106
229 PENNSYLVANIA	2ND	397995
230 MINNESOTA	8TH	397917
231 IOWA	6TH	397877
232 FLORIDA	10TH	397788
233 WEST VIRGINIA	3RD	396871
234 NEW YORK	28TH	396122
235 ILLINOIS	16TH	395293
236 NEW YORK	4TH	394494
237 INDIANA	10TH	394391
238 S. CAROLINA	6TH	394302
239 NEW JERSEY	8TH	394279
240 MISSOURI	5TH	394263
241 CALIFORNIA	19TH	393986
242 ILLINOIS	7TH	392683
243 CALIFORNIA	22ND	392600
244 MASSACHUSETTS	7TH	392350
245 PENNSYLVANIA	5TH	392176
246 LOUISIANA	4TH	391541

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151 OHIO	7TH	435621
152 NEW YORK	39TH	435393
153 PENNSYLVANIA	25TH	434552
154 WISCONSIN	1ST	434528
155 NEW JERSEY	15TH	433856
156 NEW YORK	18TH	431330
157 CALIFORNIA	36TH	430573
158 N. CAROLINA	3RD	430360
159 ILLINOIS	9TH	428463
160 MICHIGAN	3RD	427899
161 NEW YORK	9TH	426771
162 PENNSYLVANIA	26TH	426035
163 ILLINOIS	3RD	425117
164 TEXAS	19TH	424774
165 NEW YORK	10TH	424617
166 INDIANA	8TH	423929
167 PENNSYLVANIA	27TH	423787
168 CALIFORNIA	23RD	423282
169 NEW YORK	34TH	423028
170 VIRGINIA	1ST	422624
171 GEORGIA	3RD	422198
172 WEST VIRGINIA	4TH	422046
173 OHIO	21ST	421804
174 S. CAROLINA	1ST	421478
175 MASSACHUSETTS	8TH	420596
176 WASHINGTON	1ST	420548
177 TEXAS	2ND	420402

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158 N. CAROLINA	3RD	430360
159 ILLINOIS	9TH	428463
160 MICHIGAN	3RD	427899
161 NEW YORK	9TH	426771
162 PENNSYLVANIA	26TH	426035
163 ILLINOIS	3RD	425117
164 TEXAS	19TH	424774
165 NEW YORK	10TH	424617
166 INDIANA	8TH	423929
167 PENNSYLVANIA	27TH	423787
168 CALIFORNIA	23RD	423282
169 NEW YORK	34TH	423028
170 VIRGINIA	1ST	422624
171 GEORGIA	3RD	422198
172 WEST VIRGINIA	4TH	422046
173 OHIO	21ST	421804
174 S. CAROLINA	1ST	421478
175 MASSACHUSETTS	8TH	420596
176 WASHINGTON	1ST	420548
177 TEXAS	2ND	420402
178 MINNESOTA	6TH	420235
179 CALIFORNIA	32ND	419781
180 PENNSYLVANIA	1ST	418192
181 VIRGINIA	3RD	418081
182 NEW YORK	6TH	416600

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183 NEW YORK	33RD	415353
184 PENNSYLVANIA	19TH	415058
185 WASHINGTON	4TH	414764
186 TENNESSEE	3RD	412664
187 CONNECTICUT	2ND	411919
188 WISCONSIN	8TH	411807
189 KENTUCKY	6TH	411545
190 NEW YORK	36TH	410943
191 ILLINOIS	15TH	410650
192 COLORADO	3RD	410555
193 NEW YORK	37TH	410432
194 IDAHO	2ND	409949
195 MISSOURI	9TH	409369
196 NEW YORK	27TH	409349
197 PENNSYLVANIA	18TH	409291
198 CALIFORNIA	14TH	409030
199 WEST VIRGINIA	1ST	408794
200 PENNSYLVANIA	17TH	408036
201 CALIFORNIA	24TH	407654
202 CALIFORNIA	15TH	407283
203 PENNSYLVANIA	3RD	406993
204 CALIFORNIA	2ND	406506
205 FLORIDA	7TH	405611
206 NEW JERSEY	5TH	405533
207 OKLAHOMA	6TH	405003
208 PENNSYLVANIA	20TH	404997

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188 WISCONSIN	8TH	411807
189 KENTUCKY	6TH	411545
190 NEW YORK	36TH	410943
191 ILLINOIS	15TH	410650
192 COLORADO	3RD	410555
193 NEW YORK	37TH	410432
194 IDAHO	2ND	409949
195 MISSOURI	9TH	409369
196 NEW YORK	27TH	409349
197 PENNSYLVANIA	18TH	409291
198 CALIFORNIA	14TH	409030
199 WEST VIRGINIA	1ST	408794
200 PENNSYLVANIA	17TH	408036
201 CALIFORNIA	24TH	407654
202 CALIFORNIA	15TH	407283
203 PENNSYLVANIA	3RD	406993
204 CALIFORNIA	2ND	406506
205 FLORIDA	7TH	405611
206 NEW JERSEY	5TH	405533
207 OKLAHOMA	6TH	405003
208 PENNSYLVANIA	20TH	404997
209 MASSACHUSETTS	12TH	404969
210 NEBRASKA	2ND	404695
211 N. CAROLINA	9TH	404093
212 NEW YORK	11TH	403628
213 IOWA	3RD	403442
214 MISSOURI	4TH	403217

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215 IOWA	1ST	403048
216 OHIO	23RD	402752
217 NEW YORK	5TH	402290
218 NEW YORK	26TH	402204
219 MONTANA	2ND	400573
220 NEW YORK	3RD	399767
221 RHODE ISLAND	1ST	399782
222 TENNESSEE	5TH	399743
223 WASHINGTON	6TH	399362
224 WASHINGTON	5TH	399093
225 CALIFORNIA	37TH	398597
226 NEW YORK	1ST	398254
227 ILLINOIS	12TH	398192
228 MICHIGAN	8TH	398106
229 PENNSYLVANIA	2ND	397995
230 MINNESOTA	8TH	397917
231 IOWA	6TH	397877
232 FLORIDA	10TH	397788
233 WEST VIRGINIA	3RD	396871
234 NEW YORK	28TH	396122
235 ILLINOIS	16TH	395293
236 NEW YORK	4TH	394494
237 INDIANA	10TH	394391
238 S. CAROLINA	6TH	394302
239 NEW JERSEY	8TH	394279
240 MISSOURI	5TH	394263

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[fol. 180]

247 IOWA	5TH	391489	247
248 ILLINOIS	18TH	391232	248
249 PENNSYLVANIA	14TH	390512	249
250 N. CAROLINA	10TH	390020	250
251 INDIANA	4TH	390010	251
252 CALIFORNIA	30TH	389762	252
253 CALIFORNIA	25TH	389625	253
254 TENNESSEE	4TH	389563	254
255 OHIO	23TH	389312	255
256 CALIFORNIA	26TH	389216	256
257 ILLINOIS	1ST	388796	257
258 MASSACHUSETTS	2ND	388578	258
259 MISSOURI	6TH	388486	259
260 LOUISIANA	3RD	387207	260
261 ILLINOIS	17TH	387204	261
262 PENNSYLVANIA	4TH	387156	262
263 NEW YORK	35TH	386148	263
264 NEW YORK	32ND	385406	264
265 LOUISIANA	7TH	384330	265
266 NEW YORK	17TH	382320	266
267 NEW YORK	30TH	382277	267
268 MISSOURI	10TH	381602	268
269 CALIFORNIA	9TH	381225	269
270 OHIO	6TH	380847	270
271 CALIFORNIA	31ST	380679	271
272 GEORGIA	1ST	379933	272
273 CALIFORNIA	29TH	379671	273
274 CALIFORNIA	20TH	379370	274
275 FLORIDA	1ST	379288	275
276 CALIFORNIA	12TH	379010	276
277 VIRGINIA	6TH	378864	277
278 CALIFORNIA	38TH	378296	278

[Fol. 181]

279 OHIO	19TH	378122	279
280 MINNESOTA	7TH	377675	280
281 FLORIDA	5TH	377421	281
282 KANSAS	3RD	377406	282
283 MASSACHUSETTS	1ST	376336	283
284 WISCONSIN	6TH	376325	284
285 OHIO	1ST	375753	285
286 OHIO	17TH	375504	286
287 MINNESOTA	2ND	375475	287
288 FLORIDA	12TH	374655	288
289 CALIFORNIA	27TH	374283	289
290 PENNSYLVANIA	10TH	373894	290
291 ILLINOIS	22ND	373881	291
292 KANSAS	5TH	373583	292
293 MARYLAND	7TH	373327	293
294 PENNSYLVANIA	23RD	372941	294
295 CALIFORNIA	17TH	372590	295
296 NEW YORK	2ND	371950	296
297 ILLINOIS	2ND	370514	297
298 CALIFORNIA	21ST	369983	298
299 OKLAHOMA	2ND	368976	299
300 CALIFORNIA	8TH	368421	300
301 CALIFORNIA	13TH	368100	301
302 MICHIGAN	4TH	366991	302
303 WASHINGTON	2ND	366395	303
304 IOWA	4TH	366119	304
305 KENTUCKY	5TH	365140	305
306 VIRGINIA	9TH	364973	306
307 MISSISSIPPI	1ST	364963	307
308 TEXAS	18TH	363596	308
309 ILLINOIS	21ST	363196	309
310 NEW JERSEY	12TH	362914	310

[fol. 182]

311 ILLINOIS	5TH	362638
312 NEW YORK	21ST	361770
313 N. CAROLINA	11TH	361077
314 ARKANSAS	1ST	360183
315 NEW YORK	23RD	358258
316 PENNSYLVANIA	22ND	358173
317 OHIO	22ND	357998
318 KENTUCKY	2ND.	357627
319 VIRGINIA	8TH	357461
320 INDIANA	2ND	357309
321 OHIO	4TH	356994
322 NEW YORK	22ND	355847
323 PENNSYLVANIA	16TH	353564
324 TEXAS	10TH	353454
325 NEW YORK	31ST	353183
326 IOWA	7TH	353156
327 PENNSYLVANIA	21ST	352629
328 VIRGINIA	4TH	352157
329 NEW YORK	16TH	352024
330 KENTUCKY	1ST	350839
331 ILLINOIS	19TH	350515
332 N. CAROLINA	2ND	350135
333 NEW YORK	15TH	349850
334 NEW YORK	24TH	348940
335 GEORGIA	10TH	348379
336 PENNSYLVANIA	11TH	346972
337 LOUISIANA	5TH	345013
338 WASHINGTON	3RD	342540
339 CALIFORNIA	7TH	337603
340 MICHIGAN	15TH	337017
341 INDIANA	6TH	333783
342 NORTH DAKOTA	1ST	333290

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[fol. 183]

343 ARKANSAS	3RD	332844	343
344 NEW HAMPSHIRE	1ST	331818	344
345 GEORGIA	6TH	330235	345
346 WEST VIRGINIA	2ND	329612	346
347 INDIANA	7TH	329213	347
348 OHIO	18TH	328921	348
349 TEXAS	13TH	326781	349
350 VIRGINIA	5TH	325989	350
351 TENNESSEE	6TH	324357	351
352 GEORGIA	4TH	323489	352
353 TEXAS	11TH	322484	353
354 WISCONSIN	7TH	319547	354
355 CONNECTICUT	5TH	318942	355
356 S. CAROLINA	3RD	318809	356
357 UTAH	1ST	317973	357
358 NEW JERSEY	2ND	316285	358
359 VIRGINIA	7TH	312890	359
360 MICHIGAN	9TH	312854	360
361 CALIFORNIA	4TH	310651	361
362 MICHIGAN	10TH	308917	362
363 NEW JERSEY	11TH	308660	363
364 WISCONSIN	9TH	307078	364
365 WEST VIRGINIA	5TH	303098	365
366 NEW JERSEY	10TH	303058	366
367 PENNSYLVANIA	15TH	303026	367
368 CALIFORNIA	5TH	301172	368
369 GEORGIA	2ND	301123	369
370 WISCONSIN	3RD	299265	370
371 NORTH DAKOTA	2ND	299156	371
372 OHIO	5TH	298051	372
373 MISSISSIPPI	4TH	295072	373
374 TEXAS	3RD	293942	374

[fol. 184]

375 GEORGIA	8TH	291185
376 OHIO	8TH	290694
377 INDIANA	9TH	290596
378 TEXAS	17TH	287889
379 MARYLAND	4TH	283320
380 MICHIGAN	15T	283302
381 N. CAROLINA	1ST	277861
382 ILLINOIS	6TH	277169
383 NEW HAMPSHIRE	2ND	275103
384 OHIO	10TH	274441
385 MONTANA	1ST	274194
386 S. CAROLINA	5TH	272220
387 GEORGIA	9TH	272154
388 MICHIGAN	13TH	268040
389 TEXAS	7TH	265629
390 OREGON	2ND	265164
391 LOUISIANA	8TH	263850
392 TEXAS	21ST	262742
393 MARYLAND	3RD	258826
394 IDAHO	1ST	257242
395 NEW JERSEY	13TH	256977
396 NEW JERSEY	14TH	255165
397 OKLAHOMA	4TH	252206
398 TEXAS	6TH	248149
399 TEXAS	1ST	245942
400 MARYLAND	1ST	243570
401 FLORIDA	8TH	241250
402 MICHIGAN	11TH	240793
403 FLORIDA	9TH	237235
404 WISCONSIN	10TH	236870
405 OHIO	15TH	236288
406 TENNESSEE	7TH	232652

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[Vol. 185]

91

185

407 OKLAHOMA	3RD	227692
408 TENNESSEE	8TH	223387
409 TEXAS	4TH	216371
410 ARIZONA	3RD	198236
411 COLORADO	4TH	195551
412 SOUTH DAKOTA	2ND	182845
413 MICHIGAN	12TH	177431

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*BASED ON DATA CONTAINED IN EXHIBIT A. 22 REPRESENTATIVES WILL BE ELECTED AT-LARGE IN 1962 IN THE FOLLOWING STATES- ALABAMA-8, ALASKA-1, CONNECTICUT-1, DELAWARE-1, HAWAII-2, MARYLAND-1, MICHIGAN-1, NEVADA-1, NEW MEXICO-2, OHIO-1, TEXAS-1, VERMONT-1, AND WYOMING-1. THESE 22 AT-LARGE AREAS ARE NOT INCLUDED IN THIS TABLE.

DEPENDANTS' EXHIBIT 2
IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

EXHIBIT D

PERCENTAGE DEVIATIONS OF CONGRESSIONAL DISTRICT POPULATION FROM AVERAGE
POPULATION PER DISTRICT OF THE STATE*

DISTRICTS EFFECTIVE JANUARY, 1963 POPULATIONS, 1960--

STATE		1960 POPULATIONS	AVERAGE POPULATION OF STATES CONGRESSIONAL DISTRICTS	% DEVIATIONS FROM STATE AVERAGE POPULATION PER DISTRICT	CARD NO.
1 ARIZONA	1ST	663510.	434053.	52.86%	001
1 ARIZONA	2ND	440415.	434053.	1.46%	002
1 ARIZONA	3RD	198236.	434053.	-54.32%	003
2 ARKANSAS	1ST	360183.	446568.	-19.34%	004
2 ARKANSAS	2ND	517860.	446568.	15.96%	005
2 ARKANSAS	3RD	332844.	446568.	-25.46%	006
2 ARKANSAS	4TH	575385.	446568.	28.84%	007
3 CALIFORNIA	1ST	533807.	414009.	28.93%	008
3 CALIFORNIA	2ND	406506.	414009.	-1.81%	009
3 CALIFORNIA	3RD	502778.	414009.	21.44%	010
3 CALIFORNIA	4TH	310651.	414009.	-24.96%	011
3 CALIFORNIA	5TH	301172.	414009.	-27.25%	012
3 CALIFORNIA	6TH	439144.	414009.	6.07%	013
3 CALIFORNIA	7TH	337603.	414009.	-18.45%	014
3 CALIFORNIA	8TH	368421.	414009.	-11.01%	015
3 CALIFORNIA	9TH	381225.	414009.	-7.91%	016
3 CALIFORNIA	10TH	463260.	414009.	11.89%	017
3 CALIFORNIA	11TH	444387.	414009.	7.33%	018

[fol. 187]

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187

3 CALIFORNIA	12TH	379010.	414009.	-8.45%	019
3 CALIFORNIA	13TH	368100.	414009.	-11.08%	020
3 CALIFORNIA	14TH	409030.	414009.	-1.20%	021
3 CALIFORNIA	15TH	407283.	414009.	-1.62%	022
3 CALIFORNIA	16TH	496859.	414009.	20.01%	023
3 CALIFORNIA	17TH	372590.	414009.	-10.00%	024
3 CALIFORNIA	18TH	510341.	414009.	23.26%	025
3 CALIFORNIA	19TH	393986.	414009.	-4.83%	026
3 CALIFORNIA	20TH	379370.	414009.	-8.36%	027
3 CALIFORNIA	21ST	369983.	414009.	-10.63%	028
3 CALIFORNIA	22ND	392600.	414009.	-5.17%	029
3 CALIFORNIA	23RD	423282.	414009.	2.23%	030
3 CALIFORNIA	24TH	407654.	414009.	-1.53%	031
3 CALIFORNIA	25TH	389625.	414009.	-5.88%	032
3 CALIFORNIA	26TH	389216.	414009.	-5.98%	033
3 CALIFORNIA	27TH	374283.	414009.	-9.59%	034
3 CALIFORNIA	28TH	591822.	414009.	42.94%	035
3 CALIFORNIA	29TH	379671.	414009.	-8.29%	036
3 CALIFORNIA	30TH	389762.	414009.	-5.85%	037
3 CALIFORNIA	31ST	380679.	414009.	-8.05%	038
3 CALIFORNIA	32ND	419781.	414009.	1.39%	039
3 CALIFORNIA	33RD	503591.	414009.	21.63%	040
3 CALIFORNIA	34TH	460087.	414009.	11.12%	041
3 CALIFORNIA	35TH	447333.	414009.	8.04%	042
3 CALIFORNIA	36TH	430573.	414009.	4.00%	043
3 CALIFORNIA	37TH	398597.	414009.	-3.72%	044
3 CALIFORNIA	38TH	378296.	414009.	-8.62%	045
4 COLORADO	1ST	493887.	438486.	12.63%	046
4 COLORADO	2ND	653954.	438486.	49.13%	047
4 COLORADO	3RD	410555.	438486.	-6.37%	048
4 COLORADO	4TH	195551.	438486.	-55.40%	049
5 CONNECTICUT	1ST	689555.	507046.	35.99%	050

5 CONNECTICUT	2ND	411919.	507046.	-18.76%	051
5 CONNECTICUT	3RD	461229.	507046.	-9.03%	052
5 CONNECTICUT	4TH	653589.	507046.	28.90%	053
5 CONNECTICUT	5TH	318942.	507046.	-37.09%	054
6 FLORIDA	1ST	379288.	412629.	-8.08%	055
6 FLORIDA	2ND	455411.	412629.	10.36%	056
6 FLORIDA	3RD	500000.	412629.	21.17%	057
6 FLORIDA	4TH	482968.	412629.	17.04%	058
6 FLORIDA	5TH	377421.	412629.	-8.53%	059
6 FLORIDA	6TH	660345.	412629.	60.03%	060
6 FLORIDA	7TH	405611.	412629.	-1.70%	061
6 FLORIDA	8TH	241250.	412629.	-41.53%	062
6 FLORIDA	9TH	237235.	412629.	-42.50%	063
6 FLORIDA	10TH	397788.	412629.	-3.59%	064
6 FLORIDA	11TH	439578.	412629.	6.53%	065
6 FLORIDA	12TH	374655.	412629.	-9.20%	066
7 GEORGIA	1ST	379933.	394311.	-3.64%	067
7 GEORGIA	2ND	301123.	394311.	-23.63%	068
7 GEORGIA	3RD	422198.	394311.	7.07%	069
7 GEORGIA	4TH	323489.	394311.	-17.96%	070
7 GEORGIA	5TH	823680.	394311.	108.89%	071
7 GEORGIA	6TH	330235.	394311.	-16.25%	072
7 GEORGIA	7TH	450740.	394311.	14.31%	073
7 GEORGIA	8TH	291185.	394311.	-26.15%	074
7 GEORGIA	9TH	272154.	394311.	-30.97%	075
7 GEORGIA	10TH	348379.	394311.	-11.64%	076
8 IDAHO	1ST	257242.	333595.	-22.88%	077
8 IDAHO	2ND	409949.	333595.	22.88%	078
9 ILLINOIS	1ST	388796.	420100.	-7.45%	079
9 ILLINOIS	2ND	370514.	420100.	-11.80%	080
9 ILLINOIS	3RD	425117.	420100.	1.19%	081
9 ILLINOIS	4TH	511808.	420100.	21.82%	082

9 ILLINOIS	5TH	362638.	420100.	-13.67%	083
9 ILLINOIS	6TH	277169.	420100.	-34.02%	084
9 ILLINOIS	7TH	392683.	420100.	-6.52%	085
9 ILLINOIS	8TH	474503.	420100.	12.94%	086
9 ILLINOIS	9TH	428463.	420100.	1.99%	087
9 ILLINOIS	10TH	557221.	420100.	32.63%	088
9 ILLINOIS	11TH	439043.	420100.	4.50%	089
9 ILLINOIS	12TH	398192.	420100.	-5.21%	090
9 ILLINOIS	13TH	503022.	420100.	19.73%	091
9 ILLINOIS	14TH	505076.	420100.	20.22%	092
9 ILLINOIS	15TH	410650.	420100.	-2.24%	093
9 ILLINOIS	16TH	395293.	420100.	-5.90%	094
9 ILLINOIS	17TH	387204.	420100.	-7.83%	095
9 ILLINOIS	18TH	391232.	420100.	-6.87%	096
9 ILLINOIS	19TH	350515.	420100.	-16.56%	097
9 ILLINOIS	20TH	445443.	420100.	6.03%	098
9 ILLINOIS	21ST	363196.	420100.	-13.54%	099
9 ILLINOIS	22ND	373881.	420100.	-11.00%	100
9 ILLINOIS	23RD	443553.	420100.	5.58%	101
9 ILLINOIS	24TH	487198.	420100.	15.97%	102
10 INDIANA	1ST	513269.	423863.	21.09%	103
10 INDIANA	2ND	357309.	423863.	-15.70%	104
10 INDIANA	3RD	472958.	423863.	11.58%	105
10 INDIANA	4TH	390010.	423863.	-7.98%	106
10 INDIANA	5TH	459473.	423863.	8.40%	107
10 INDIANA	6TH	333783.	423863.	-21.25%	108
10 INDIANA	7TH	329213.	423863.	-22.33%	109
10 INDIANA	8TH	423929.	423863.	.01%	110
10 INDIANA	9TH	290596.	423863.	-31.44%	111
10 INDIANA	10TH	394391.	423863.	-6.95%	112
10 INDIANA	11TH	697567.	423863.	64.57%	113
11 IOWA	1ST	403048.	393933.	2.31%	114

11 IOWA	2ND	442406.	393933.	12.30%	115
11 IOWA	3RD	403442.	393933.	2.41%	116
11 IOWA	4TH	366119.	393933.	-7.06%	117
11 IOWA	5TH	391489.	393933.	-.62%	118
11 IOWA	6TH	397877.	393933.	1.00%	119
11 IOWA	7TH	353156.	393933.	-10.35%	120
12 KANSAS	1ST	539592.	435722.	23.83%	121
12 KANSAS	2ND	446621.	435722.	2.50%	122
12 KANSAS	3RD	377406.	435722.	-13.38%	123
12 KANSAS	4TH	441409.	435722.	1.30%	124
12 KANSAS	5TH	373583.	435722.	-14.26%	125
13 KENTUCKY	1ST	350839.	434022.	-19.16%	126
13 KENTUCKY	2ND	357627.	434022.	-17.60%	127
13 KENTUCKY	3RD	610947.	434022.	40.76%	128
13 KENTUCKY	4TH	478783.	434022.	10.31%	129
13 KENTUCKY	5TH	365140.	434022.	-15.87%	130
13 KENTUCKY	6TH	411545.	434022.	-5.17%	131
13 KENTUCKY	7TH	463275.	434022.	6.73%	132
14 LOUISIANA	1ST	449491.	407127.	10.40%	133
14 LOUISIANA	2ND	499561.	407127.	22.70%	134
14 LOUISIANA	3RD	387207.	407127.	-4.89%	135
14 LOUISIANA	4TH	391541.	407127.	-3.82%	136
14 LOUISIANA	5TH	345013.	407127.	-15.25%	137
14 LOUISIANA	6TH	536029.	407127.	31.66%	138
14 LOUISIANA	7TH	384330.	407127.	-5.59%	139
14 LOUISIANA	8TH	263850.	407127.	-35.19%	140
15 MAINE	1ST	463800.	484632.	-4.29%	141
15 MAINE	2ND	505465.	484632.	4.29%	142
16 MARYLAND	1ST	243570.	442955.	-45.01%	143
16 MARYLAND	2ND	321935.	442955.	40.40%	144
16 MARYLAND	3RD	258826.	442955.	-41.56%	145
16 MARYLAND	4TH	283320.	442955.	-36.03%	146

16 MARYLAND	5TH	711045.	442955.	60.32%	147
16 MARYLAND	6TH	608666.	442955.	37.41%	148
16 MARYLAND	7TH	373327.	442955.	-15.71%	149
17 MASSACHUSETTS	1ST	376336.	429048.	-12.28%	150
17 MASSACHUSETTS	2ND	388578.	429048.	-9.43%	151
17 MASSACHUSETTS	3RD	441558.	429048.	2.91%	152
17 MASSACHUSETTS	4TH	444069.	429048.	3.50%	153
17 MASSACHUSETTS	5TH	450716.	429048.	5.05%	154
17 MASSACHUSETTS	6TH	452956.	429048.	5.57%	155
17 MASSACHUSETTS	7TH	392350.	429048.	-8.55%	156
17 MASSACHUSETTS	8TH	420596.	429048.	-1.96%	157
17 MASSACHUSETTS	9TH	478962.	429048.	11.63%	158
17 MASSACHUSETTS	10TH	456308.	429048.	6.35%	159
17 MASSACHUSETTS	11TH	441180.	429048.	2.82%	160
17 MASSACHUSETTS	12TH	404969.	429048.	-5.61%	161
18 MICHIGAN	1ST	283302.	434621.	-34.81%	162
18 MICHIGAN	2ND	483343.	434621.	11.21%	163
18 MICHIGAN	3RD	427899.	434621.	-1.54%	164
18 MICHIGAN	4TH	366991.	434621.	-15.56%	165
18 MICHIGAN	5TH	461906.	434621.	6.27%	166
18 MICHIGAN	6TH	623842.	434621.	43.53%	167
18 MICHIGAN	7TH	664556.	434621.	52.90%	168
18 MICHIGAN	8TH	398106.	434621.	-8.40%	169
18 MICHIGAN	9TH	312854.	434621.	-28.01%	170
18 MICHIGAN	10TH	308917.	434621.	-28.92%	171
18 MICHIGAN	11TH	240793.	434621.	-44.59%	172
18 MICHIGAN	12TH	177431.	434621.	-59.17%	173
18 MICHIGAN	13TH	268040.	434621.	-38.32%	174
18 MICHIGAN	14TH	462192.	434621.	6.34%	175
18 MICHIGAN	15TH	337017.	434621.	-22.45%	176
18 MICHIGAN	16TH	802994.	434621.	84.75%	177
18 MICHIGAN	17TH	512752.	434621.	17.97%	178

18. MICHIGAN	18TH	690259.	434621.	58.81%	179
19 MINNESOTA	1ST	438635.	426733.	2.83%	180
19 MINNESOTA	2ND	375475.	426733.	-12.01%	181
19 MINNESOTA	3RD	445898.	426733.	4.49%	182
19 MINNESOTA	4TH	474957.	426733.	11.30%	183
19 MINNESOTA	5TH	482872.	426733.	13.15%	184
19 MINNESOTA	6TH	420235.	426733.	-1.52%	185
19 MINNESOTA	7TH	377675.	426733.	-11.49%	186
19 MINNESOTA	8TH	397917.	426733.	-6.75%	187
20 MISSISSIPPI	1ST	364963.	435628.	-16.22%	188
20 MISSISSIPPI	2ND	608441.	435628.	39.66%	189
20 MISSISSIPPI	3RD	460100.	435628.	5.61%	190
20 MISSISSIPPI	4TH	295072.	435628.	-32.26%	191
20 MISSISSIPPI	5TH	449565.	435628.	3.19%	192
21 MISSOURI	1ST	465486.	431881.	7.78%	193
21 MISSOURI	2ND	505854.	431881.	17.12%	194
21 MISSOURI	3RD	461218.	431881.	11.42%	195
21 MISSOURI	4TH	403217.	431881.	-6.63%	196
21 MISSOURI	5TH	394263.	431881.	-8.71%	197
21 MISSOURI	6TH	388486.	431881.	-10.04%	198
21 MISSOURI	7TH	436933.	431881.	1.16%	199
21 MISSOURI	8TH	452385.	431881.	4.74%	200
21 MISSOURI	9TH	409369.	431881.	-5.21%	201
21 MISSOURI	10TH	381602.	431881.	-11.64%	202
22 MONTANA	1ST	274194.	337383.	-18.72%	203
22 MONTANA	2ND	400573.	337383.	18.72%	204
23 NEBRASKA	1ST	530507.	470443.	12.76%	205
23 NEBRASKA	2ND	404695.	470443.	-13.97%	206
23 NEBRASKA	3RD	476128.	470443.	1.20%	207
24 NEW HAMPSHIRE	1ST	331816.	303460.	9.34%	208
24 NEW HAMPSHIRE	2ND	275103.	303460.	-9.34%	209
25 NEW JERSEY	1ST	585586.	404452.	44.73%	210

26 NEW YORK	19TH	445175.	409324.	8.75%	243
26 NEW YORK	20TH	439456.	409324.	7.36%	244
26 NEW YORK	21ST	361770.	409324.	-11.61%	245
26 NEW YORK	22ND	399847.	409324.	-13.06%	246
26 NEW YORK	23RD	358258.	409324.	-12.47%	247
26 NEW YORK	24TH	348940.	409324.	-14.75%	248
26 NEW YORK	25TH	438409.	409324.	7.10%	249
26 NEW YORK	26TH	402204.	409324.	-1.73%	250
26 NEW YORK	27TH	409349.	409324.	.00%	251
26 NEW YORK	28TH	396122.	409324.	-3.22%	252
26 NEW YORK	29TH	453165.	409324.	10.71%	253
26 NEW YORK	30TH	460409.	409324.	12.48%	254
26 NEW YORK	31ST	353183.	409324.	-13.71%	255
26 NEW YORK	32ND	385406.	409324.	-5.84%	256
26 NEW YORK	33RD	415333.	409324.	1.46%	257
26 NEW YORK	34TH	423028.	409324.	3.34%	258
26 NEW YORK	35TH	386148.	409324.	-5.66%	259
26 NEW YORK	36TH	410943.	409324.	.39%	260
26 NEW YORK	37TH	410432.	409324.	.27%	261
26 NEW YORK	38TH	382277.	409324.	-6.60%	262
26 NEW YORK	39TH	435393.	409324.	6.36%	263
26 NEW YORK	40TH	435684.	409324.	6.43%	264
26 NEW YORK	41ST	435880.	409324.	6.48%	265
27 N. CAROLINA	1ST	277861.	414195.	-32.91%	266
27 N. CAROLINA	2ND	350135.	414195.	-15.46%	267
27 N. CAROLINA	3RD	430360.	414195.	3.90%	268
27 N. CAROLINA	4TH	460795.	414195.	11.25%	269
27 N. CAROLINA	5TH	454261.	414195.	9.67%	270
27 N. CAROLINA	6TH	487159.	414195.	17.61%	271
27 N. CAROLINA	7TH	448933.	414195.	8.38%	272
27 N. CAROLINA	8TH	491461.	414195.	18.65%	273
27 N. CAROLINA	9TH	404093.	414195.	-2.43%	274

27 N. CAROLINA	10TH	390020.	414195.	-5.83%	275
27 N. CAROLINA	11TH	361077.	414195.	-12.82%	276
28 NORTH DAKOTA	1ST	333290.	316223.	5.39%	277
28 NORTH DAKOTA	2ND	299156.	316223.	-5.39%	278
29 OHIO	1ST	375753.	422017.	-10.96%	279
29 OHIO	2ND	488368.	422017.	15.72%	280
29 OHIO	3RD	726156.	422017.	72.06%	281
29 OHIO	4TH	356994.	422017.	-15.40%	282
29 OHIO	5TH	298051.	422017.	-29.37%	283
29 OHIO	6TH	380847.	422017.	-9.25%	284
29 OHIO	7TH	435621.	422017.	3.22%	285
29 OHIO	8TH	290694.	422017.	-31.11%	286
29 OHIO	9TH	456931.	422017.	8.27%	287
29 OHIO	10TH	274441.	422017.	-34.96%	288
29 OHIO	11TH	512022.	422017.	21.32%	289
29 OHIO	12TH	682962.	422017.	61.83%	290
29 OHIO	13TH	389312.	422017.	-7.74%	291
29 OHIO	14TH	578884.	422017.	37.17%	292
29 OHIO	15TH	236288.	422017.	-44.00%	293
29 OHIO	16TH	492631.	422017.	16.73%	294
29 OHIO	17TH	375504.	422017.	-11.02%	295
29 OHIO	18TH	328521.	422017.	-22.05%	296
29 OHIO	19TH	378122.	422017.	-10.40%	297
29 OHIO	20TH	465341.	422017.	10.20%	298
29 OHIO	21ST	421804.	422017.	-.05%	299
29 OHIO	22ND	351990.	422017.	-15.16%	300
29 OHIO	23RD	402122.	422017.	-4.56%	301
30 OKLAHOMA	1ST	521542.	388047.	34.40%	302
30 OKLAHOMA	2ND	368976.	388047.	-4.91%	303
30 OKLAHOMA	3RD	227692.	388047.	-41.32%	304
30 OKLAHOMA	4TH	252208.	388047.	-35.00%	305
30 OKLAHOMA	5TH	552863.	388047.	42.47%	306

[fol. 196]

30 OKLAHOMA	6TH	405003.	388047.	4.36%	307
31 OREGON	1ST	517678.	442171.	17.07%	308
31 OREGON	2ND	265164.	442171.	-40.03%	309
31 OREGON	3RD	522813.	442171.	18.23%	310
31 OREGON	4TH	463032.	442171.	4.71%	311
32 PENNSYLVANIA	1ST	418192.	419235.	-.24%	312
32 PENNSYLVANIA	2ND	397995.	419235.	-5.00%	313
32 PENNSYLVANIA	3RD	406993.	419235.	-2.92%	314
32 PENNSYLVANIA	4TH	387156.	419235.	-7.65%	315
32 PENNSYLVANIA	5TH	392176.	419235.	-6.45%	316
32 PENNSYLVANIA	6TH	552579.	419235.	31.80%	317
32 PENNSYLVANIA	7TH	553154.	419235.	31.94%	318
32 PENNSYLVANIA	8TH	536103.	419235.	27.87%	319
32 PENNSYLVANIA	9TH	488767.	419235.	16.63%	320
32 PENNSYLVANIA	10TH	373894.	419235.	-10.81%	321
32 PENNSYLVANIA	11TH	346972.	419235.	-17.23%	322
32 PENNSYLVANIA	12TH	439795.	419235.	4.89%	323
32 PENNSYLVANIA	13TH	516682.	419235.	23.24%	324
32 PENNSYLVANIA	14TH	390512.	419235.	-6.85%	325
32 PENNSYLVANIA	15TH	303026.	419235.	-27.71%	326
32 PENNSYLVANIA	16TH	353664.	419235.	-15.66%	327
32 PENNSYLVANIA	17TH	408036.	419235.	-2.67%	328
32 PENNSYLVANIA	18TH	409291.	419235.	-2.37%	329
32 PENNSYLVANIA	19TH	415058.	419235.	-.99%	330
32 PENNSYLVANIA	20TH	404997.	419235.	-3.39%	331
32 PENNSYLVANIA	21ST	352629.	419235.	-15.88%	332
32 PENNSYLVANIA	22ND	358173.	419235.	-14.56%	333
32 PENNSYLVANIA	23RD	372941.	419235.	-11.04%	334
32 PENNSYLVANIA	24TH	456157.	419235.	8.80%	335
32 PENNSYLVANIA	25TH	434552.	419235.	3.65%	336
32 PENNSYLVANIA	26TH	426035.	419235.	1.62%	337
32 PENNSYLVANIA	27TH	423787.	419235.	1.08%	338

[fol. 197]

33 RHODE ISLAND	1ST	399782.	429744.	-6.97%	339
33 RHODE ISLAND	2ND	459706.	429744.	6.97%	340
34 S. CAROLINA	1ST	421478.	397099.	6.13%	341
34 S. CAROLINA	2ND	531555.	397099.	33.85%	342
34 S. CAROLINA	3RD	318809.	397099.	-19.71%	343
34 S. CAROLINA	4TH	444230.	397099.	11.86%	344
34 S. CAROLINA	5TH	272220.	397099.	-31.44%	345
34 S. CAROLINA	6TH	394302.	397099.	-.70%	346
35 SOUTH DAKOTA	1ST	497669.	340257.	46.26%	347
35 SOUTH DAKOTA	2ND	182845.	340257.	-46.26%	348
36 TENNESSEE	1ST	460583.	396343.	16.20%	349
36 TENNESSEE	2ND	497121.	396343.	25.42%	350
36 TENNESSEE	3RD	412664.	396343.	4.11%	351
36 TENNESSEE	4TH	389563.	396343.	-1.71%	352
36 TENNESSEE	5TH	399743.	396343.	.85%	353
36 TENNESSEE	6TH	324357.	396343.	-18.16%	354
36 TENNESSEE	7TH	232652.	396343.	-41.30%	355
36 TENNESSEE	8TH	223387.	396343.	-43.63%	356
36 TENNESSEE	9TH	627019.	396343.	57.20%	357
37 TEXAS	1ST	245942.	435439.	-43.51%	358
37 TEXAS	2ND	420402.	435439.	-3.45%	359
37 TEXAS	3RD	293942.	435439.	-32.49%	360
37 TEXAS	4TH	216371.	435439.	-50.30%	361
37 TEXAS	5TH	951527.	435439.	118.52%	362
37 TEXAS	6TH	248149.	435439.	-43.01%	363
37 TEXAS	7TH	265629.	435439.	-38.99%	364
37 TEXAS	8TH	568193.	435439.	30.48%	365
37 TEXAS	9TH	498775.	435439.	14.54%	366
37 TEXAS	10TH	353454.	435439.	-18.82%	367
37 TEXAS	11TH	322484.	435439.	-25.94%	368
37 TEXAS	12TH	538495.	435439.	23.66%	369
37 TEXAS	13TH	326781.	435439.	-24.95%	370

[fol. 198]

37 TEXAS	14TH	539262.	435439.	23.84%	371
37 TEXAS	15TH	515716.	435439.	18.43%	372
37 TEXAS	16TH	573438.	435439.	31.69%	373
37 TEXAS	17TH	287889.	435439.	-33.88%	374
37 TEXAS	18TH	363596.	435439.	-16.49%	375
37 TEXAS	19TH	424774.	435439.	-2.44%	376
37 TEXAS	20TH	607151.	435439.	57.80%	377
37 TEXAS	21ST	262742.	435439.	-39.66%	378
37 TEXAS	22ND	674965.	435439.	55.00%	379
38 UTAH	1ST	317973.	445313.	-28.59%	380
38 UTAH	2ND	572654.	445313.	28.59%	381
39 VIRGINIA	1ST	422624.	396694.	6.53%	382
39 VIRGINIA	2ND	494292.	396694.	24.60%	383
39 VIRGINIA	3RD	418081.	396694.	5.39%	384
39 VIRGINIA	4TH	352157.	396694.	-11.22%	385
39 VIRGINIA	5TH	325989.	396694.	-17.82%	386
39 VIRGINIA	6TH	378864.	396694.	-4.49%	387
39 VIRGINIA	7TH	312890.	396694.	-21.12%	388
39 VIRGINIA	8TH	357461.	396694.	-9.89%	389
39 VIRGINIA	9TH	364973.	396694.	-7.99%	390
39 VIRGINIA	10TH	539618.	396694.	36.02%	391
40 WASHINGTON	1ST	420548.	407602.	3.17%	392
40 WASHINGTON	2ND	366395.	407602.	-10.10%	393
40 WASHINGTON	3RD	342540.	407602.	-15.96%	394
40 WASHINGTON	4TH	414764.	407602.	1.75%	395
40 WASHINGTON	5TH	399093.	407602.	-2.08%	396
40 WASHINGTON	6TH	399362.	407602.	-2.02%	397
40 WASHINGTON	7TH	510512.	407602.	25.24%	398
41 WEST VIRGINIA	1ST	408794.	372084.	9.86%	399
41 WEST VIRGINIA	2ND	329612.	372084.	-11.41%	400
41 WEST VIRGINIA	3RD	396871.	372084.	6.66%	401
41 WEST VIRGINIA	4TH	422046.	372084.	13.42%	402

[fol. 199]

41 WEST VIRGINIA	5TH	303098.	372004.	-18.54%	403
42 WISCONSIN	1ST	434528.	395177.	9.95%	404
42 WISCONSIN	2ND	530316.	395177.	34.19%	405
42 WISCONSIN	3RD	299265.	395177.	-24.27%	406
42 WISCONSIN	4TH	515367.	395177.	30.41%	407
42 WISCONSIN	5TH	520674.	395177.	31.75%	408
42 WISCONSIN	6TH	376325.	395177.	-4.77%	409
42 WISCONSIN	7TH	319547.	395177.	-19.13%	410
42 WISCONSIN	8TH	411807.	395177.	4.20%	411
42 WISCONSIN	9TH	307078.	395177.	-22.29%	412
42 WISCONSIN	10TH	236670.	395177.	-40.05%	413

*CALCULATIONS MADE FROM DATA CONTAINED IN EXHIBIT A. THE FOLLOWING EIGHT STATES ARE NOT INCLUDED, SINCE THEY WILL ELECT THEIR CONGRESSMEN ON AN AT-LARGE BASIS IN 1962- ALABAMA, ALASKA, DELAWARE, HAWAII, NEVADA, NEW MEXICO, VERMONT, AND WYOMING.

DEFENDANT'S EXHIBIT B
IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
EXHIBIT E

CONGRESSIONAL DISTRICTS WITH POPULATION EXCEEDING STATE AVERAGE RANKED ACCORDING
TO % DEVIATION ABOVE AVERAGE*

DISTRICTS EFFECTIVE JANUARY, 1963 POPULATIONS, 1960--

CONGRESSIONAL DISTRICT	1960 POPULATIONS	AVERAGE POPULATION OF STATES CONGRESSIONAL DISTRICTS	% DEVIATION ABOVE STATES AVERAGE	CARD NO.
1 TEXAS	5TH 751527.	435439.	118.52%	362
2 GEORGIA	5TH 823680.	394311.	108.89%	371
3 MICHIGAN	16TH 802994.	434621.	84.75%	177
4 OHIO	3RD 726156.	422017.	72.06%	281
5 INDIANA	11TH 697567.	425863.	64.57%	113
6 OHIO	12TH 682962.	422017.	61.83%	290
7 MARYLAND	5TH 711045.	442955.	60.52%	147
8 FLORIDA	6TH 660345.	412629.	60.03%	060
9 MICHIGAN	18TH 690259.	434621.	58.81%	179
10 TENNESSEE	9TH 627019.	396343.	58.20%	357
11 TEXAS	20TH 687151.	435439.	57.80%	377
12 TEXAS	22ND 674965.	435439.	55.00%	379
13 MICHIGAN	7TH 664556.	434621.	52.90%	168
14 ARIZONA	1ST 663510.	434053.	52.86%	001
15 COLORADO	2ND 653954.	438486.	49.13%	047
16 SOUTH DAKOTA	1ST 497669.	340257.	46.26%	347
17 NEW JERSEY	1ST 585586.	404452.	44.78%	210
18 MICHIGAN	6TH 623842.	434621.	43.53%	167

[fol. 201]

19 CALIFORNIA	28TH	591822.	414009.	42.94%	035
20 OKLAHOMA	5TH	552863.	388047.	42.47%	306
21 KENTUCKY	3RD	610947.	434022.	40.76%	128
22 MARYLAND	2ND	621935.	442955.	40.40%	144
23 MISSISSIPPI	2ND	608441.	435628.	39.66%	189
24 MARYLAND	6TH	608666.	442955.	37.41%	148
25 NEW JERSEY	7TH	555555.	404452.	37.35%	216
26 OHIO	14TH	578884.	422017.	37.17%	292
27 VIRGINIA	10TH	539618.	396694.	36.02%	391
28 CONNECTICUT	1ST	689555.	507046.	35.99%	050
29 OKLAHOMA	1ST	521542.	388047.	34.40%	302
30 WISCONSIN	2ND	530316.	395177.	34.19%	405
31 S. CAROLINA	2ND	531555.	397099.	33.85%	342
32 ILLINOIS	10TH	557221.	420100.	32.63%	088
33 PENNSYLVANIA	7TH	553154.	419235.	31.94%	318
34 PENNSYLVANIA	6TH	552579.	419235.	31.80%	317
35 WISCONSIN	5TH	520674.	395177.	31.75%	408
36 TEXAS	16TH	573438.	435439.	31.69%	373
37 LOUISIANA	6TH	536029.	407127.	31.66%	738
38 TEXAS	8TH	568193.	435439.	30.48%	365
39 WISCONSIN	4TH	515367.	395177.	30.41%	407
40 CALIFORNIA	1ST	533807.	414009.	28.93%	008
41 CONNECTICUT	4TH	653589.	507046.	28.90%	053
42 ARKANSAS	4TH	575385.	446568.	28.84%	007
43 UTAH	2ND	572654.	445313.	28.59%	381
44 PENNSYLVANIA	8TH	536103.	419235.	27.87%	319
45 TENNESSEE	2ND	497121.	396343.	25.42%	350
46 WASHINGTON	7TH	510512.	407602.	25.24%	398
47 NEW JERSEY	6TH	504255.	404452.	24.67%	215
48 VIRGINIA	2ND	494292.	396694.	24.60%	383
49 TEXAS	14TH	539262.	435439.	23.84%	371
50 KANSAS	1ST	539592.	435722.	23.83%	121

51 TEXAS	12TH	538495.	435439.	23.66%	369
52 CALIFORNIA	18TH	510341.	414009.	23.26%	025
53 PENNSYLVANIA	13TH	516682.	419235.	23.24%	324
54 IDAHO	2ND	409949.	333595.	22.88%	078
55 LOUISIANA	2ND	499561.	407127.	22.70%	134
56 ILLINOIS	4TH	511808.	420100.	21.82%	082
57 CALIFORNIA	33RD	503591.	414009.	21.63%	040
58 CALIFORNIA	3RD	502778.	414009.	21.44%	010
59 NEW JERSEY	4TH	490891.	404452.	21.37%	213
60 OHIO	11TH	512022.	422017.	21.32%	239
61 FLORIDA	3RD	500000.	412629.	21.17%	Q57
62 INDIANA	1ST	513269.	423863.	21.09%	103
63 ILLINOIS	14TH	505076.	420100.	20.22%	092
64 CALIFORNIA	16TH	496859.	414009.	20.01%	023
65 ILLINOIS	13TH	503022.	420100.	19.73%	091
66 MONTANA	2ND	400573.	337383.	18.72%	204
67 N. CAROLINA	8TH	491461.	414195.	18.65%	273
68 TEXAS	15TH	515716.	435439.	18.43%	372
69 OREGON	3RD	522813.	442171.	18.23%	310
70 MICHIGAN	17TH	512752.	434621.	17.97%	178
71 N. CAROLINA	6TH	487159.	414195.	17.61%	271
72 MISSOURI	2ND	505854.	431881.	17.12%	194
73 OREGON	1ST	517678.	442171.	17.07%	308
74 FLORIDA	4TH	482968.	412629.	17.04%	058
75 OHIO	16TH	492631.	422017.	16.73%	294
76 PENNSYLVANIA	9TH	488967.	419235.	16.63%	320
77 TENNESSEE	1ST	460583.	396343.	16.20%	349
78 ILLINOIS	24TH	487198.	420100.	15.97%	102
79 ARKANSAS	2ND	517860.	446568.	15.96%	005
80 OHIO	2ND	488368.	422017.	15.72%	280
81 NEW YORK	12TH	469908.	409324.	14.80%	236
82 TEXAS	9TH	498775.	435439.	14.54%	366

[Vol. 203]

109

243

83 GEORGIA	7TH	450740.	394311.	14.31%	073
84 NEW YORK	14TH	465889.	409324.	13.81%	238
85 WEST VIRGINIA	4TH	422046.	372084.	13.42%	402
86 MINNESOTA	5TH	482872.	426733.	13.15%	184
87 ILLINOIS	8TH	474503.	420100.	12.94%	086
88 NEBRASKA	1ST	530507.	470443.	12.76%	205
89 COLORADO	1ST	493887.	438486.	12.63%	046
90 NEW YORK	30TH	460409.	409324.	12.48%	254
91 IOWA	2ND	442406.	393933.	12.30%	115
92 CALIFORNIA	10TH	463260.	414009.	11.89%	017
93 S. CAROLINA	4TH	444230.	397099.	11.86%	344
94 NEW YORK	7TH	457124.	409324.	11.67%	231
95 MASSACHUSETTS	9TH	478962.	429048.	11.63%	158
96 INDIANA	3RD	472958.	423863.	11.58%	105
97 NEW JERSEY	9TH	451126.	404452.	11.54%	218
98 MISSOURI	3RD	481218.	431881.	11.42%	175
99 MINNESOTA	4TH	474957.	426733.	11.30%	183
100 N. CAROLINA	4TH	460795.	414195.	11.25%	269
101 MICHIGAN	2ND	483343.	434621.	11.21%	163
102 CALIFORNIA	34TH	460087.	414009.	11.12%	041
103 NEW YORK	13TH	454285.	409324.	10.98%	237
104 NEW YORK	29TH	453165.	409324.	10.71%	253
105 LOUISIANA	1ST	449491.	407127.	10.40%	133
106 FLORIDA	2ND	455411.	412629.	10.36%	056
107 KENTUCKY	4TH	478783.	434022.	10.31%	129
108 OHIO	20TH	465341.	422017.	10.26%	298
109 WISCONSIN	1ST	434528.	395177.	9.95%	404
110 WEST VIRGINIA	1ST	408794.	372084.	9.86%	399
111 N. CAROLINA	5TH	454261.	414195.	9.67%	270
112 NEW JERSEY	3RD	442642.	404452.	9.44%	212
113 NEW HAMPSHIRE	1ST	331818.	303460.	9.34%	208
114 PENNSYLVANIA	24TH	456157.	419235.	8.80%	335

[fol. 204]

115 NEW YORK	19TH	445175.	409324.	8.75%	243
116 INDIANA	5TH	459473.	423863.	8.40%	107
117 N. CAROLINA	7TH	448933.	414195.	8.38%	272
118 OHIO	9TH	456931.	422017.	8.27%	287
119 CALIFORNIA	35TH	447333.	414009.	8.04%	042
120 MISSOURI	1ST	465486.	431881.	7.78%	193
121 NEW YORK	20TH	439456.	409324.	7.36%	244
122 CALIFORNIA	11TH	444387.	414009.	7.33%	018
123 NEW JERSEY	15TH	433856.	404452.	7.27%	224
124 NEW YORK	25TH	438409.	409324.	7.10%	249
125 GEORGIA	3RD	422198.	394311.	7.07%	069
126 NEW YORK	8TH	438192.	409324.	7.05%	232
127 RHODE ISLAND	2ND	459706.	425744.	6.97%	340
128 KENTUCKY	7TH	463275.	434022.	6.73%	132
129 WEST VIRGINIA	3RD	396871.	372084.	6.66%	401
130 FLORIDA	11TH	439578.	412629.	6.53%	065
131 VIRGINIA	1ST	422624.	396694.	6.53%	382
132 NEW YORK	41ST	435680.	409324.	6.48%	265
133 NEW YORK	40TH	435684.	409324.	6.43%	264
134 NEW YORK	39TH	435393.	409324.	6.36%	263
135 MASSACHUSETTS	10TH	456308.	429048.	6.35%	159
136 MICHIGAN	14TH	462192.	434621.	6.34%	175
137 MICHIGAN	5TH	461906.	434621.	6.27%	166
138 S. CAROLINA	1ST	421478.	397099.	6.13%	341
139 CALIFORNIA	6TH	439144.	414009.	6.07%	013
140 ILLINOIS	20TH	445443.	420100.	6.03%	098
141 MISSISSIPPI	3RD	460100.	435628.	5.61%	190
142 ILLINOIS	23RD	443553.	420100.	5.58%	101
143 MASSACHUSETTS	6TH	452956.	429048.	5.57%	155
144 NORTH DAKOTA	1ST	333290.	316223.	5.39%	277
145 VIRGINIA	3RD	418081.	396694.	5.39%	384
146 NEW YORK	18TH	431330.	409324.	5.37%	242

147 MASSACHUSETTS	5TH	450716.	429048.	5.05%	154
148 PENNSYLVANIA	12TH	49745.	419235.	4.89%	323
149 MISSOURI	8TH	452385.	431881.	4.74%	200
150 OREGON	4TH	463032.	442171.	4.71%	311
151 ILLINOIS	11TH	439043.	420100.	4.50%	089
152 MINNESOTA	3RD	445898.	426733.	4.49%	182
153 OKLAHOMA	6TH	405003.	388047.	4.36%	307
154 MAINE	2ND	505465.	484632.	4.29%	142
155 NEW YORK	9TH	426771.	409324.	4.26%	233
156 WISCONSIN	8TH	411807.	395177.	4.20%	411
157 TENNESSEE	3RD	412664.	396343.	4.11%	351
158 CALIFORNIA	36TH	430573.	414009.	4.00%	043
159 N. CAROLINA	3RD	430360.	414195.	3.90%	268
160 NEW YORK	10TH	424617.	409324.	3.73%	234
161 PENNSYLVANIA	25TH	434552.	419235.	3.65%	336
162 MASSACHUSETTS	4TH	444667.	429048.	3.50%	153
163 NEW YORK	34TH	423028.	407324.	3.34%	258
164 OHIO	7TH	435621.	422017.	3.22%	285
165 MISSISSIPPI	5TH	449565.	435628.	3.19%	192
166 WASHINGTON	1ST	420548.	407602.	3.17%	392
167 MASSACHUSETTS	3RD	441558.	429048.	2.91%	152
168 MINNESOTA	1ST	438835.	426733.	2.83%	180
169 MASSACHUSETTS	11TH	441180.	429048.	2.82%	160
170 KANSAS	2ND	446621.	435722.	2.50%	122
171 IOWA	3RD	403442.	393933.	2.41%	116
172 IOWA	1ST	403048.	393933.	2.31%	114
173 CALIFORNIA	23RD	423282.	414009.	2.23%	030
174 ILLINOIS	9TH	428463.	420100.	1.99%	087
175 NEW YORK	6TH	416600.	409324.	1.77%	230
176 WASHINGTON	4TH	414764.	407602.	1.75%	395
177 PENNSYLVANIA	26TH	426035.	419235.	1.62%	337
178 ARIZONA	2ND	440415.	434053.	1.46%	002

[fol. 206]

179 NEW YORK	33RD	415333.	409324.	1.46%	257
180 CALIFORNIA	32ND	419781.	414009.	1.39%	039
181 KANSAS	4TH	441409.	435722.	1.30%	124
182 NEBRASKA	3RD	476128.	470443.	1.20%	207
183 ILLINOIS	3RD	425117.	420100.	1.19%	081
184 MISSOURI	7TH	436533.	431881.	1.16%	199
185 PENNSYLVANIA	27TH	423787.	419235.	1.08%	338
186 IOWA	6TH	397877.	393933.	1.00%	119
187 TENNESSEE	5TH	399743.	396343.	.85%	353
188 NEW YORK	36TH	410943.	409324.	.39%	260
189 NEW YORK	37TH	410432.	409324.	.27%	261
190 NEW JERSEY	5TH	405533.	404452.	.26%	214
191 INDIANA	8TH	423929.	423863.	.01%	110
192 NEW YORK	27TH	409349.	409324.	.00%	251

*CALCULATED FROM DATA GIVEN IN EXHIBIT A. THE 22 AT-LARGE AREAS ARE NOT INCLUDED.

[fol. 207]

IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

EXHIBIT F

CONGRESSIONAL DISTRICTS WITH POPULATION LESS THAN STATE AVERAGE RANKED ACCORDING
TO % DEVIATION BELOW AVERAGE*

DISTRICTS EFFECTIVE JANUARY, 1963 POPULATIONS, 1960--

CONGRESSIONAL DISTRICT	1960 POPULATIONS	AVERAGE POPULATION OF STATES CONGRESSIONAL DISTRICTS	% DEVIATION BELOW STATES AVERAGE	CARD NO.
1 MICHIGAN	12TH 177431.	434621.	-59.17%	173
2 COLORADO	4TH 195551.	438486.	-55.40%	049
3 ARIZONA	3RD 198236.	434053.	-54.32%	003
4 TEXAS	4TH 216371.	435439.	-50.30%	361
5 SOUTH DAKOTA	2ND 182845.	342257.	-46.26%	348
6 MARYLAND	1ST 243570.	442955.	-45.01%	143
7 MICHIGAN	11TH 240793.	434621.	-44.59%	172
8 OHIO	15TH 236288.	422017.	-44.00%	293
9 TENNESSEE	8TH 223387.	396343.	-43.63%	356
10 TEXAS	1ST 245942.	435439.	-43.51%	358
11 TEXAS	6TH 248149.	435439.	-43.01%	363
12 FLORIDA	9TH 237235.	412629.	-42.50%	063
13 MARYLAND	3RD 258826.	442955.	-41.56%	145
14 FLORIDA	8TH 241250.	412629.	-41.53%	062
15 OKLAHOMA	3RD 227692.	388047.	-41.32%	304
16 TENNESSEE	7TH 232652.	396343.	-41.30%	355
17 WISCONSIN	10TH 236870.	395177.	-40.05%	413
18 OREGON	2ND 265164.	442171.	-40.03%	309

[fol. 208]

114

208

19 TEXAS	21ST	262742.	435439.	-39.66%	378
20 TEXAS	7TH	265629.	435439.	-38.99%	364
21 MICHIGAN	13TH	268040.	434621.	-38.32%	174
22 CONNECTICUT	5TH	318942.	507046.	-37.09%	054
23 NEW JERSEY	14TH	255165.	404452.	-36.91%	223
24 NEW JERSEY	13TH	256977.	404452.	-36.46%	222
25 MARYLAND	4TH	283320.	442955.	-36.03%	146
26 LOUISIANA	8TH	263850.	407127.	-35.19%	140
27 OKLAHOMA	4TH	252208.	388047.	-35.00%	305
28 OHIO	10TH	274411.	422017.	-34.96%	288
29 MICHIGAN	1ST	283302.	434621.	-34.81%	162
30 ILLINOIS	6TH	277169.	420100.	-34.02%	084
31 TEXAS	17TH	287889.	435439.	-33.88%	374
32 N. CAROLINA	1ST	277861.	414195.	-32.91%	266
33 TEXAS	3RD	293942.	435439.	-32.49%	360
34 MISSISSIPPI	4TH	295072.	435628.	-32.26%	191
35 INDIANA	9TH	290596.	423863.	-31.44%	111
36 S. CAROLINA	5TH	272220.	397099.	-31.44%	345
37 OHIO	8TH	290694.	422017.	-31.11%	286
38 GEORGIA	9TH	272154.	394311.	-30.97%	075
39 OHIO	5TH	298051.	422017.	-29.37%	283
40 MICHIGAN	10TH	308917.	434621.	-28.92%	171
41 UTAH	1ST	317973.	445313.	-28.59%	380
42 MICHIGAN	9TH	312854.	434621.	-28.01%	170
43 PENNSYLVANIA	15TH	303026.	419235.	-27.71%	326
44 CALIFORNIA	5TH	301172.	414009.	-27.25%	012
45 GEORGIA	8TH	291185.	394311.	-26.15%	074
46 TEXAS	11TH	322484.	435439.	-25.94%	368
47 ARKANSAS	3RD	332844.	446568.	-25.46%	006
48 NEW JERSEY	10TH	303058.	404452.	-25.06%	219
49 CALIFORNIA	4TH	310651.	414009.	-24.96%	011
50 TEXAS	13TH	326781.	435439.	-24.95%	370

[Vol. 209]

51 WISCONSIN	3RD	299265.	395177.	-24.27%	406
52 NEW JERSEY	11TH	308660.	404452.	-23.68%	220
53 GEORGIA	2ND	301123.	394311.	-23.63%	068
54 IDAHO	1ST	257242.	333595.	-22.88%	077
55 MICHIGAN	15TH	337017.	434621.	-22.45%	176
56 INDIANA	7TH	329213.	423863.	-22.33%	109
57 WISCONSIN	9TH	307078.	395177.	-22.29%	412
58 OHIO	18TH	328921.	422017.	-22.05%	296
59 NEW JERSEY	2ND	316285.	404452.	-21.79%	211
60 INDIANA	6TH	333783.	423863.	-21.25%	108
61 VIRGINIA	7TH	312890.	396694.	-21.12%	388
62 S. CAROLINA	3RD	318809.	397099.	-19.71%	343
63 ARKANSAS	1ST	360183.	446568.	-19.34%	004
64 KENTUCKY	1ST	350839.	434022.	-19.16%	126
65 WISCONSIN	7TH	319547.	395177.	-19.13%	410
66 TEXAS	10TH	353454.	435439.	-18.82%	367
67 CONNECTICUT	2ND	411919.	507046.	-18.76%	081
68 MONTANA	1ST	274194.	337363.	-18.72%	203
69 WEST VIRGINIA	5TH	303098.	372064.	-18.54%	403
70 CALIFORNIA	7TH	337603.	414009.	-18.45%	014
71 TENNESSEE	6TH	324357.	396343.	-18.16%	354
72 GEORGIA	4TH	323489.	394311.	-17.96%	070
73 VIRGINIA	5TH	325989.	396694.	-17.82%	386
74 KENTUCKY	2ND	357627.	434022.	-17.60%	127
75 PENNSYLVANIA	11TH	346972.	419235.	-17.23%	322
76 ILLINOIS	12TH	350515.	420100.	-16.56%	097
77 TEXAS	18TH	363596.	435439.	-16.49%	375
78 GEORGIA	6TH	330235.	394311.	-16.25%	072
79 MISSISSIPPI	1ST	364963.	435628.	-16.22%	188
80 WASHINGTON	3RD	342540.	407602.	-15.96%	394
81 PENNSYLVANIA	21ST	352629.	419235.	-15.88%	332
82 KENTUCKY	5TH	365140.	434022.	-15.87%	130

[fol. 210]

83 MARYLAND	7TH	373327.	442955.	-15.71%	149
84 INDIANA	2ND	357309.	423863.	-15.70%	104
85 PENNSYLVANIA	16TH	353564.	419235.	-15.66%	327
86 MICHIGAN	4TH	366991.	434621.	-15.56%	165
87 N. CAROLINA	2ND	350135.	414195.	-15.46%	267
88 OHIO	4TH	356994.	422017.	-15.40%	282
89 LOUISIANA	5TH	345013.	407127.	-15.29%	137
90 OHIO	22ND	357998.	422017.	-15.16%	300
91 NEW YORK	24TH	348940.	409324.	-14.75%	248
92 PENNSYLVANIA	22ND	358173.	419235.	-14.56%	333
93 NEW YORK	15TH	349850.	409324.	-14.52%	239
94 KANSAS	5TH	373583.	435722.	-14.26%	125
95 NEW YORK	16TH	352024.	409324.	-13.99%	240
96 NEBRASKA	2ND	404695.	470443.	-13.97%	206
97 NEW YORK	31ST	353183.	409324.	-13.71%	255
98 ILLINOIS	5TH	362638.	420100.	-13.67%	083
99 ILLINOIS	21ST	363196.	420100.	-13.54%	099
100 KANSAS	3RD	377406.	435722.	-13.38%	123
101 NEW YORK	22ND	355847.	409324.	-13.06%	246
102 N. CAROLINA	11TH	361077.	414195.	-12.82%	276
103 NEW YORK	23RD	358258.	409324.	-12.47%	247
104 MASSACHUSETTS	1ST	376336.	429048.	-12.28%	150
105 MINNESOTA	2ND	375475.	426733.	-12.01%	181
106 ILLINOIS	2ND	370514.	420100.	-11.80%	080
107 GEORGIA	10TH	348379.	394311.	-11.64%	076
108 MISSOURI	10TH	381602.	431881.	-11.64%	202
109 NEW YORK	21ST	361770.	409324.	-11.61%	245
110 MINNESOTA	7TH	377675.	426733.	-11.49%	186
111 WEST VIRGINIA	2ND	329612.	372084.	-11.41%	400
112 VIRGINIA	4TH	352157.	396694.	-11.22%	385
113 CALIFORNIA	13TH	368100.	414009.	-11.08%	020
114 PENNSYLVANIA	23RD	372941.	419235.	-11.04%	334

[14.211]

115 OHIO	17TH	375504.	422017.	-11.02%	295
116 CALIFORNIA	8TH	368421.	414009.	-11.01%	015
117 ILLINOIS	22ND	373881.	420100.	-11.00%	100
118 OHIO	1ST	375753.	422017.	-10.96%	279
119 PENNSYLVANIA	10TH	373894.	419235.	-10.81%	321
120 CALIFORNIA	21ST	369983.	414009.	-10.63%	028
121 OHIO	19TH	378122.	422017.	-10.40%	297
122 IOWA	7TH	353156.	393933.	-10.35%	120
123 NEW JERSEY	12TH	362914.	404452.	-10.27%	221
124 WASHINGTON	2ND	366395.	407602.	-10.10%	393
125 MISSOURI	6TH	388486.	431881.	-10.04%	198
126 CALIFORNIA	17TH	372590.	414009.	-10.00%	024
127 VIRGINIA	8TH	357461.	396694.	-9.89%	389
128 OHIO	6TH	380847.	422017.	-9.75%	284
129 CALIFORNIA	27TH	374283.	414009.	-9.59%	034
130 MASSACHUSETTS	2ND	388578.	429048.	-9.43%	151
131 NEW HAMPSHIRE	2ND	275103.	303460.	-9.34%	209
132 FLORIDA	12TH	374655.	412629.	-9.20%	066
133 NEW YORK	2ND	371950.	409324.	-9.13%	226
134 CONNECTICUT	3RD	461229.	507046.	-9.03%	052
135 MISSOURI	5TH	394263.	431881.	-8.71%	197
136 CALIFORNIA	38TH	378296.	414009.	-8.62%	045
137 MASSACHUSETTS	7TH	392350.	429048.	-8.55%	156
138 FLORIDA	5TH	377421.	412629.	-8.53%	059
139 CALIFORNIA	12TH	379010.	414009.	-8.45%	019
140 MICHIGAN	8TH	398106.	434621.	-8.40%	169
141 CALIFORNIA	20TH	379370.	414009.	-8.36%	027
142 CALIFORNIA	29TH	379671.	414009.	-8.29%	036
143 FLORIDA	1ST	379288.	412629.	-8.08%	055
144 CALIFORNIA	31ST	380679.	414009.	-8.05%	038
145 VIRGINIA	9TH	364973.	396694.	-7.99%	390
146 INDIANA	4TH	390010.	423863.	-7.98%	106

[fol. 212]

147 CALIFORNIA	9TH	381225.	414009.	-7.91%	016
148 ILLINOIS	17TH	387204.	420100.	-7.83%	095
149 OHIO	13TH	389312.	422117.	-7.74%	291
150 PENNSYLVANIA	4TH	387156.	419235.	-7.65%	315
151 ILLINOIS	1ST	388796.	420100.	-7.45%	079
152 IOWA	4TH	366119.	393933.	-7.06%	117
153 RHODE ISLAND	1ST	399782.	429744.	-6.97%	339
154 INDIANA	10TH	394391.	423863.	-6.95%	112
155 ILLINOIS	18TH	391232.	420100.	-6.87%	096
156 PENNSYLVANIA	14TH	390512.	419235.	-6.85%	325
157 MINNESOTA	8TH	397917.	426733.	-6.75%	187
158 MISSOURI	4TH	403217.	431881.	-6.63%	196
159 NEW YORK	38TH	382277.	409324.	-6.60%	262
160 NEW YORK	17TH	382320.	409324.	-6.59%	241
161 ILLINOIS	7TH	392683.	420100.	-6.52%	085
162 PENNSYLVANIA	5TH	392176.	419235.	-6.45%	316
163 COLORADO	3RD	410555.	438486.	-6.37%	048
164 CALIFORNIA	26TH	389216.	414009.	-5.98%	033
165 ILLINOIS	16TH	395293.	420100.	-5.90%	094
166 CALIFORNIA	25TH	389625.	414009.	-5.88%	032
167 CALIFORNIA	30TH	389762.	414009.	-5.85%	037
168 NEW YORK	32ND	385406.	409324.	-5.84%	256
169 N. CAROLINA	10TH	390020.	414195.	-5.83%	275
170 NEW YORK	35TH	386148.	409324.	-5.66%	259
171 MASSACHUSETTS	12TH	404969.	429048.	-5.61%	161
172 LOUISIANA	7TH	384330.	407127.	-5.59%	139
173 NORTH DAKOTA	2ND	299156.	316223.	-5.39%	278
174 ILLINOIS	12TH	398192.	420100.	-5.21%	090
175 MISSOURI	9TH	409369.	431881.	-5.21%	201
176 CALIFORNIA	22ND	392600.	414009.	-5.17%	029
177 KENTUCKY	6TH	411545.	434022.	-5.17%	131
178 PENNSYLVANIA	2ND	397995.	419235.	-5.06%	313

179 OKLAHOMA	2ND	368976.	388047.	-4.91%	303
180 LOUISIANA	3RD	387207.	407127.	-4.89%	135
181 CALIFORNIA	19TH	393986.	414009.	-4.83%	026
182 WISCONSIN	6TH	376325.	395177.	-4.77%	409
183 OHIO	23RD	402752.	422017.	-4.56%	301
184 VIRGINIA	6TH	378864.	396694.	-4.49%	387
185 MAINE	1ST	463800.	484632.	-4.29%	141
186 LOUISIANA	4TH	391541.	407127.	-3.82%	136
187 CALIFORNIA	37TH	398597.	414009.	-3.72%	044
188 GEORGIA	1ST	379933.	394311.	-3.64%	067
189 NEW YORK	4TH	394494.	409324.	-3.62%	228
190 FLORIDA	10TH	397788.	412629.	-3.59%	064
191 TEXAS	2ND	420402.	435439.	-3.45%	359
192 PENNSYLVANIA	20TH	404997.	419235.	-3.39%	331
193 NEW YORK	28TH	396122.	409324.	-3.22%	252
194 PENNSYLVANIA	3RD	406993.	419235.	-2.92%	314
195 NEW YORK	1ST	398254.	409324.	-2.70%	225
196 PENNSYLVANIA	17TH	408036.	419235.	-2.67%	328
197 NEW JERSEY	8TH	394279.	404452.	-2.51%	217
198 TEXAS	19TH	424774.	435439.	-2.44%	376
199 N. CAROLINA	9TH	404093.	414195.	-2.43%	274
200 PENNSYLVANIA	18TH	409291.	419235.	-2.37%	329
201 NEW YORK	3RD	399967.	409324.	-2.28%	227
202 ILLINOIS	15TH	410650.	420100.	-2.24%	093
203 WASHINGTON	5TH	399093.	407602.	-2.08%	396
204 WASHINGTON	6TH	399362.	407602.	-2.02%	397
205 MASSACHUSETTS	8TH	420596.	429048.	-1.96%	157
206 CALIFORNIA	2ND	406506.	414009.	-1.81%	009
207 NEW YORK	26TH	402204.	409324.	-1.73%	250
208 NEW YORK	5TH	402290.	409324.	-1.71%	229
209 TENNESSEE	4TH	389563.	396343.	-1.71%	352
210 FLORIDA	7TH	405611.	412629.	-1.70%	061

[fol. 214]

211 CALIFORNIA	15TH	407283.	414009.	-1.62%	022
212 MICHIGAN	3RD	427899.	434621.	-1.54%	164
213 CALIFORNIA	24TH	407654.	414009.	-1.53%	31
214 MINNESOTA	6TH	420235.	426733.	-1.52%	185
215 NEW YORK	11TH	403628.	409324.	-1.39%	235
216 CALIFORNIA	14TH	409030.	414009.	-1.20%	021
217 PENNSYLVANIA	19TH	415058.	419235.	-.99%	330
218 S. CAROLINA	6TH	394302.	397099.	-.70%	346
219 IOWA	5TH	391489.	393933.	-.62%	118
220 PENNSYLVANIA	1ST	418192.	419235.	-.24%	312
221 OHIO	21ST	421804.	422017.	-.05%	299

*CALCULATED FROM DATA GIVEN IN EXHIBIT A. THE 22 AT-LARGE AREAS ARE NOT INCLUDED.

[fol. 215]

[fol. 216]

IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

DEFENDANTS' EXHIBIT 8

EXHIBIT A

U. S. CONGRESSIONAL DISTRICTS
(Effective January, 1963—1960 Population)

*Alabama**

8 to be elected at-large: 3,266,740
(9 chosen in 9 districts in May 1, 1962 primary; 8 of the 9 receiving highest votes in May 29, 1962 primary will serve.)

*Alaska**

At-large 226,167

Arizona

(*Arizona Revised Statutes Annotated*, sec. 16-727; and
U. S. Census of Population, 1960)

1st	663,510
2nd	440,415
3rd	198,236

Arkansas

(*Congressional Quarterly Weekly Report*, Oct. 13, 1961,
p. 1739)

1st	360,183
2nd	517,860
3rd	332,844
4th	575,385

*California****

(*Congressional Quarterly Weekly Report*, July 21, 1961,
p. 1281)

1st	533,807
2nd	406,506

California—(continued)

3rd	502,778
4th	310,651
5th	301,172
6th	439,144
7th	337,603
8th	368,421
9th	381,225
10th	463,260
11th	444,387
12th	379,010
13th	368,100
14th	409,030
15th	407,283
16th	496,859
17th	372,590
18th	510,341
19th	393,986
20th	379,370
21st	369,983
[fol. 217]	
22nd	392,600
23rd	423,282
24th	407,654
25th	389,625
26th	389,216
27th	374,283
28th	591,822
29th	379,671
30th	389,762
31st	380,679
32nd	419,781
33rd	503,591
34th	460,087
35th	447,333
36th	430,573
37th	398,597
38th	378,296

124.

[fol. 218]

*Colorado**

1st	493,887
2nd	653,954
3rd	410,555
4th	195,551

*Connecticut**

1st	689,555
2nd	411,919
3rd	461,229
4th	653,589
5th	318,942
at-large	2,535,234 (total population)

*Delaware**

at-large	446,292
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Florida

(*Congressional Quarterly Weekly Report*, June 9, 1961, p. 954)

1st	379,288
2nd	455,411
3rd	500,000
4th	482,968
5th	377,421
6th	660,345
7th	405,611
8th	241,250
9th	237,235
10th	397,788
11th	439,578
12th	374,655

*Georgia**

1st	379,933
2nd	301,123
3rd	422,198

Georgia—(continued)

4th	323,489
5th	823,680
6th	330,235
7th	450,740
8th	291,185
9th	272,154
10th	348,379

[fol. 219]

*Hawaii**

at-large	632,772 (total population)
at-large	632,772 (total population)

*Idaho**

1st	257,242
2nd	409,949

Illinois

(*Congressional Quarterly Weekly Report*, Dec. 1, 1961,
p. 1911)

1st	388,796**
2nd	370,514**
3rd	425,117**
4th	511,808**
5th	362,638**
6th	277,169**
7th	392,683**
8th	474,503**
9th	428,463**
10th	557,221**
11th	430,043**
12th	398,192
13th	503,022**
14th	505,076
15th	410,650
16th	395,293
17th	387,204
18th	391,232
19th	350,515

Illinois—(continued)

20th	445,443
21st	363,196
22nd	373,881
23rd	443,553
24th	487,198

*Indiana**

1st	513,269
2nd	357,309
3rd	472,958
4th	390,010
5th	459,473
6th	333,783
7th	329,213
8th	423,929
9th	290,596
10th	394,391
11th	697,567

[fol. 220]

*Iowa**(Congressional Quarterly Weekly Report, May 19, 1961, p. 855)*

1st	403,048
2nd	442,406
3rd	403,442
4th	366,119
5th	391,489
6th	397,877
7th	353,156

*Kansas**(Congressional Quarterly Weekly Report, April 21, 1961, p. 684)*

1st	539,592
2nd	446,621
3rd	377,406
4th	441,409
5th	373,583

Kentucky

(*Congressional Quarterly Weekly Report*, March 16, 1962,
p. 447)

1st	350,839
2nd	357,627
3rd	610,947
4th	478,783
5th	365,140
6th	411,545
7th	463,273

*Louisiana**

1st	449,491
2nd	499,561
3rd	387,207
4th	391,541
5th	345,013
6th	536,029
7th	384,330
8th	263,850

Maine

(*Congressional Quarterly Weekly Report*, June 16, 1961,
p. 1002)

1st	463,800
2nd	505,465

[fol. 221]

*Maryland**

1st	243,570
2nd	621,935
3rd	258,826
4th	283,320
5th	711,045
6th	608,666
7th	373,327
at-large	3,100,689 (total population)

*Massachusetts**(Congressional Quarterly Weekly Report, May 11, 1962,
p. 808)*

1st	376,336
2nd	388,578
3rd	441,558
4th	444,069
5th	450,716
6th	452,956
7th	392,350
8th	420,596
9th	478,962
10th	456,308
11th	441,180
12th	404,969

*Michigan**

1st	283,302
2nd	483,343
3rd	427,899
4th	366,991
5th	461,906
6th	623,842
7th	664,556
8th	398,106
9th	312,854
10th	308,917
11th	240,793
12th	177,431
13th	268,040
14th	462,192
15th	337,017
16th	802,994
17th	512,752
18th	690,259
at-large	7,823,194 (total population)

[fol. 222]

Minnesota*(Congressional Quarterly Weekly Report, Dec. 22, 1961,
p. 1971)*

1st	438,835
2nd	375,475
3rd	445,898
4th	474,957
5th	482,872
6th	420,235
7th	377,675
8th	397,917

Mississippi*(Congressional Quarterly Weekly Report, April 6, 1962,
p. 557)*

1st	364,963
2nd	608,441
3rd	460,100
4th	295,072
5th	449,565

Missouri*(Congressional Quarterly Weekly Report, July 7, 1961,
p. 1209)*

1st	465,486
2nd	505,854
3rd	481,218
4th	403,217
5th	394,263
6th	388,486
7th	436,933
8th	452,385
9th	409,369
10th	381,602

Montana

1st	274,194
2nd	400,573

Nebraska*(Congressional Quarterly Weekly Report, May 12, 1961,
p. 812)*

1st	530,507
2nd	404,695
3rd	476,128

Nevada*

at-large	285,278
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[fol. 223]

New Hampshire*

1st	331,818
2nd	275,103

New Jersey*(Congressional Quarterly Weekly Report, May 19, 1961,
p. 857)*

1st	585,586
2nd	316,285
3rd	442,642
4th	490,891
5th	405,533
6th	504,255
7th	555,555
8th	394,279
9th	451,126
10th	303,058
11th	308,660
12th	362,914
13th	256,977
14th	255,165
15th	433,856

[fol. 224]

New Mexico*

At-large	951,023 (Total population)
At-large	951,023 (Total population)

New York
(*Congressional Quarterly Weekly Report*, Nov. 17, 1961,
p. 1870)

1st	398,254
2nd	371,950
3rd	399,967
4th	394,494
5th	402,290
6th	416,600
7th	457,124
8th	438,192
9th	426,771
10th	424,617
11th	403,628
12th	469,908
13th	454,285
14th	465,889
15th	349,850
16th	352,024
17th	382,320
18th	431,330
19th	445,175
20th	439,456
21st	361,770
22nd	355,847
23rd	358,258
24th	348,940
25th	438,409
26th	402,204
27th	409,349
28th	396,122
29th	453,165
30th	460,409
31st	353,183
32nd	385,406
33rd	415,333
34th	423,028
35th	386,148
36th	410,943
37th	410,432

New York—(continued)

38th	382,277
39th	435,393
40th	435,684
41st	435,880

[fol. 225]

North Carolina*(Congressional Quarterly Weekly Report, June 30, 1961, p. 1178)*

1st	277,861
2nd	350,135
3rd	430,360
4th	460,795
5th	454,261
6th	487,159
7th	448,933
8th	491,461
9th	404,093
10th	390,020
11th	361,077

North Dakota*(Congressional Quarterly Weekly Report, Jan. 27, 1961, p. 112)*

1st	333,290
2nd	299,156

Ohio*

1st	375,753
2nd	488,368
3rd	726,156
4th	356,994
5th	298,051
6th	380,847
7th	435,621
8th	290,694
9th	456,931
10th	274,441
11th	512,022
12th	682,962

Ohio—(continued)

13th	389,312
14th	578,884
15th	236,288
16th	492,631
17th	375,504
18th	328,921
19th	378,122
20th	465,341
21st	421,804
22nd	357,998
23rd	402,752
At-large	9,706,397 (Total population)

[fol. 226]

*Oklahoma**

1st	521,542
2nd	368,976
3rd	227,692
4th	252,208
5th	552,863
6th	405,003

*Oregon**

1st	517,678
2nd	265,164
3rd	522,813
4th	463,032

Pennsylvania

(Congressional Quarterly Weekly Report, Feb. 9, 1962,
p. 218)

1st	418,192
2nd	397,995
3rd	406,993
4th	387,156
5th	392,176
6th	552,579
7th	553,154
8th	536,103

Pennsylvania—(continued)

9th	488,967
10th	373,894
11th	346,972
12th	439,745
13th	516,682
14th	390,512
15th	303,026
16th	353,564
17th	408,036
18th	409,291
19th	415,058
20th	404,997
21st	352,629
22nd	358,173
23rd	372,941
24th	456,157
25th	434,552
26th	426,035
27th	423,787

[fol. 227]

*Rhode Island**

1st	399,782
2nd	459,706

*South Carolina**

1st	421,478
2nd	531,555
3rd	318,809
4th	444,230
5th	272,220
6th	394,302

*South Dakota**

1st	497,669
2nd	182,845

Tennessee

1st	460,583
2nd	497,121
3rd	412,664
4th	389,563
5th	399,743
6th	324,357
7th	232,652
8th	223,387
9th	627,019

Texas

1st	245,942
2nd	420,402
3rd	293,942
4th	216,371
5th	951,527
6th	248,149
7th	265,629
8th	568,193
9th	498,775
10th	353,454
11th	322,484
12th	538,495
13th	326,781
14th	539,262

[fol. 228]

15th	515,716
16th	573,438
17th	287,889
18th	363,596
19th	424,774
20th	687,151
21st	262,742
22nd	674,965

At-large 9,579,677 (Total population)

136

*Utah**

1st	317,973
2nd	572,654

*Vermont**

At-large	389,881
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*Virginia**

1st	422,624
2nd	494,292
3rd	418,081
4th	352,157
5th	325,989
6th	378,864
7th	312,890
8th	357,461
9th	364,973
10th	539,618

*Washington**

1st	420,548
2nd	366,395
3rd	342,540
4th	414,764
5th	399,093
6th	399,362
7th	510,512

[fol. 225]

West Virginia

(*Congressional Quarterly Weekly Report*, March 31, 1961,
p. 533)

1st	408,794
2nd	329,612
3rd	396,871
4th	422,046
5th	303,098

Wisconsin*

1st	434,528
2nd	530,316
3rd	299,265
4th	515,367
5th	520,674
6th	376,325
7th	319,547
8th	411,807
9th	307,078
10th	236,870

Wyoming*

At-large 330,066

* *Congressional Quarterly Weekly Report*, Feb. 2, 1962, pp. 158-169; and *Congressional Quarterly Special Report*, Part II of Weekly Report No. 18, May 4, 1962, pp. 724-729 and 691-723.

** Chicago population figures include some minor estimates.

*** Figures for districts which constitute only a part of one or more counties are estimates only.

138

[fol. 230]

EXHIBIT B

See Opposite 15

EXHIBIT B

States Ranked by Ratio of Most Populous to Least Populous Congressional Districts¹

(Districts effective: January, 1963 - Populations: 1960)

State	Most Populous District	Least Populous District	Ratio of Most Populous to Least Populous
1. Michigan	16th 802,994	12th 177,431	4.53
2. Texas	5th 951,387	4th 216,371	4.40
3. Arizona	1st 683,510	3rd 158,236	3.35
4. Colorado	2nd 653,954	4th 193,551	3.34
5. Ohio	3rd 786,156	15th 236,288	3.07
6. Georgia	5th 823,680	9th 272,154	3.03
7. Maryland	5th 711,045	1st 243,570	2.92
8. Tennessee	9th 687,019	8th 223,387	2.81
9. Florida	6th 660,345	9th 237,235	2.78
10. South Dakota	1st 497,669	2nd 182,843	2.72
11. Oklahoma	5th 552,863	3rd 227,692	2.43
12. Indiana	11th 697,567	9th 290,526	2.40
13. New Jersey	1st 585,586	14th 253,165	2.29
14. Wisconsin	2nd 530,316	10th 236,870	2.24
15. Connecticut	1st 689,555	5th 318,942	2.16
16. Mississippi	2nd 608,441	4th 293,072	2.06
17. Louisiana	6th 536,089	8th 263,830	2.03
18. Illinois	10th 557,221	6th 277,169	2.01
19. California	28th 591,822	5th 301,172	1.97
20. Oregon	3rd 522,813	2nd 265,164	1.97
21. South Carolina	2nd 531,555	5th 272,220	1.95
22. Pennsylvania	7th 553,194	15th 303,086	1.83
23. Utah	2nd 572,654	1st 317,973	1.80
24. North Carolina	8th 491,461	1st 277,861	1.77
25. Kentucky	3rd 610,947	1st 350,839	1.74
26. Arkansas	4th 575,385	3rd 328,844	1.73
27. Virginia	10th 539,618	7th 312,830	1.72
28. Idaho	2nd 409,949	1st 257,842	1.59
29. Washington	7th 510,512	3rd 342,980	1.49
30. West Virginia	4th 422,046	5th 303,098	1.49
31. Montana	2nd 400,573	1st 274,194	1.46
32. Kansas	1st 539,592	5th 373,583	1.44
33. New York	12th 469,908	24th 348,940	1.35
34. Missouri	2nd 505,854	10th 381,802	1.33
35. Nebraska	1st 430,507	2nd 404,695	1.31
36. Minnesota	5th 482,572	2nd 375,475	1.29
37. Massachusetts	9th 478,962	1st 376,336	1.27
38. Iowa	2nd 442,406	7th 353,156	1.25
39. New Hampshire	1st 331,818	2nd 275,103	1.21
40. Rhode Island	2nd 459,706	1st 399,782	1.15
41. North Dakota	1st 333,290	2nd 299,156	1.11
42. Maine	2nd 505,465	1st 463,800	1.09

¹Calculations made from data contained in EXHIBIT A. The following eight states are not included, since they will elect their Congressmen on an at-large basis in 1962: Alabama, Alaska, Delaware, Hawaii, Nevada, New Mexico, Vermont, and Wyoming.